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The Solicitors' Journal

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The text of the Companies Act, 1929, is included in an Appendix, with a Comparative Table of Sections showing whence the Sections of the present Act are derived.

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Current Topics.

Legacies Free of Death Duties.

THE COMMENT of our contributor in "A Conveyancer's Diary" on the recent decision of EVE, J., in *Re Laidlaw* (1930), W.N. 206, expressing some doubt as to the correctness of the decision, was apparently based on the short report in the *Weekly Notes*, and it may be that perusal of the judgment in full will resolve that doubt. The testator there directed that all legacies and annuities should be "paid, satisfied and enjoyed free of death duties," practically the same form of words as in *Re Stoddart* [1916] 2 Ch. 444, where SARGANT, J., said it would have been difficult for the testator to have used more comprehensive words, and held that they threw all prospective claims for death duty upon the residue in relief of the settled legacies. The two cases also resembled each other in the fact that the ultimate residue in both cases went to charities. EVE, J., however, decided in *Re Laidlaw* that, while the direction was sufficient to free all legacies whenever they became payable, from legacy duty, it did not in the circumstances and having regard to the context afforded by the rest of the will extend to free legacies from estate duty payable in the future, by reason of the falling in of life interests in settled legacies, or any other estate duty except that payable by reason of the testator's own death. He distinguished *Re Stoddart* on the ground that the decision of SARGANT, J., was influenced not only by the actual words of the clause freeing legacies from death duties, but by other words clearly showing an intention to provide for the payment of future duties. In *Re Laidlaw*, however, there was a context pointing the other way. The testator there who left over £500,000 and gave very large sums in legacies, settled and unsettled, bequeathed to some of the legatees additions to their legacies upon the contingency of his net residue exceeding the comparatively modest sum of £25,000. It was argued by counsel that such a provision clearly showed that the testator expected his net residuary estate would be ascertainable within a reasonably short time, probably a year after his death. But that would obviously become impossible if the estate were to be burdened with future estate duties of an uncertain amount payable at some undefined future date. The argument therefore prevailed, and EVE, J., held, applying the rule in *Re Wedgwood* [1921] 1 Ch. 601, that the direction exempted legatees only from estate duty payable on the testator's death. The Court of Appeal in *Re Wedgwood* laid down a general rule that the words "free of death duties" *primâ facie* refer to the death duties immediately payable upon the testator's death, and not to any liability which may accrue in the future by reason of other persons' deaths. It would require the use of very strong and clear language to impose the burden of prospective duties on the residue. The average testator has quite enough to do to provide for his own death duties, and might not readily accept the suggestion of a draughtsman that he should project his benevolence into the future, at the expense of his residuary legatees.

Contributory Negligence.

IN *Swadling* v. *Cooper*, *The Times*, 29th July, a case arising out of the collision of a motor car and a motor cycle at a cross road, the House of Lords considered the proper form of summing-up to a jury on a defence of contributory negligence. The motor cyclist had been killed by the accident, and his widow brought the action against the driver of the car under Lord Campbell's Act. The defendant pleaded contributory negligence, and HUMPHREYS, J., in summing up, told the jury they must find for him if, in effect, both parties were, not necessarily equally, but substantially to blame for the accident. The jury returned, desiring further and better particulars of what the judge meant by substantial contributory negligence. HUMPHREYS, J., explaining that there was no legal definition, grappled as best he might with the difficult task placed upon him, having regard to the confusion of authorities. The jury found for the defendant. On the plaintiff's appeal, the Court of Appeal ordered a new trial, considering that the judge should have mentioned the importance of the time-factor in the matter. The House of Lords held that, in the circumstances, the time-factor was not a vital one, and that the summing up was sufficient for the purpose. In LORD HAILSHAM'S words, "It was not the whole law of negligence that needed exposition in every case, but only that part of it which was essential to a clear understanding of the issue which the jury had to determine." And it was admitted that, between the time when the defendant was aware of the proximity of the deceased, and the moment of the accident, only about a second could have elapsed. In such circumstances no doubt the rule laid down in the *Bywell Castle* (1879), 4 P.D. 219, would protect the defendant. The complexities of the law, tending to make juries disagree, were fully discussed in these pages last year (see 73 SOL. J., p. 414), and, as we pointed out, are well illustrated by the violently conflicting judgments set forth in the long course of *Neeman* v. *Hosford* [1920] 2 I.R. 258. Incidentally, *Loach's Case* [1916] 1 A.C. 719, appears irreconcilable with the model summing up required by the Court of Appeal in *Swadling* v. *Cooper*. *The Times*, in a leading article, suggests that the present law as to contributory negligence on land should be modified to accord with that governing collisions at sea, which enables the court to apportion damages according to blame. In fact we made the same suggestion last November (see 73 SOL. J., p. 789), and can only express satisfaction that it is so powerfully reinforced. The change in the law would be a simple one, would obviously relieve juries, and would disturb no vested interests, so there seems no reason why it should not be made, except perhaps that Parliament has no particular taste for law reform.

The Lena Goldfields Case.

After a scrupulously fair and impartial hearing the Arbitration Court appointed under the concession agreement between Lena Goldfields Limited and the Soviet Government has awarded Lena Goldfields the sum of £12,965,000, to be paid by the Soviet Government in British sterling, and has declared that the concession agreement is dissolved. The agreement, which was signed in 1925, was an outcome of the Soviet Government's "New Economic Policy," by which they hoped to encourage foreign capitalists to invest money in Russia. It granted the Lena Company exclusive rights of exploration and mining in three rich and extensive areas, and certain other valuable rights, for a fixed period of fifty years from August 18th, 1925, except in the case of one concession, where the period was thirty years. In 1928 a vital change occurred in the policy of the Soviet Union, and the "Five Year Plan" was adopted, by means of which Russia was to be transformed from an agrarian into an industrial state, on undiluted communist principles, and on a basis antagonistic to all forms of capitalistic enterprise. Hostile criticisms of the company in the Russian press were followed by victimisation of the Lena Company's employees by means of loss of trade union and political rights, and their staff began to resign in large numbers. The trouble culminated on December 15th, 1929, in a raid directed by the Central Government and executed by the O.G.P.U. ("the federal political police") simultaneously at practically every one of Lena's numerous establishments, which were situated at considerable distances apart. Numerous arrests and trials followed, and terrorisation continued. The activities of the Lena Company were completely paralysed, and on February 25th, 1930, both parties agreed to submit their disputes to arbitration under the terms of the agreement. Sir Leslie Scott, K.C. was appointed as arbitrator by the Company, the Soviet nominee was M. Tchlenoff, while both sides accepted Professor Otto Stutzer of the Freiberg Mining Academy as "super-arbitrator." At the last moment, however, the Soviet Government recalled its arbitrator, and refused to take any further part in the proceedings. The court, however, continued to act in the absence of the Soviet representative, as indeed it was bound to do under the terms of the agreement, and the trial was fixed for August 6th, 1930, in London at the Royal Courts of Justice. The Soviet newspaper *Izvestia* has stated that the Soviet Government cannot be bound by the award, as no notice of the time and place where the court was to assemble was sent to the Government, but in fact a copy of the order containing exact directions as to the date and place of the trial was actually sent to the Government. The proceedings lasted twenty-two days, with the result as stated above.

"Enrichissement Sans Cause."

Apart from its political significance the award is of considerable legal interest. The court held that the law applicable to the interpretation of the contract with regard to performances by both parties inside the U.S.S.R. was Russian, as the contract had not excluded its application for that purpose, but that for all other purposes the agreement clearly contemplated the application of general principles of law such as those recognised by Art. 38 of the Statute of the Permanent Court of International Justice at the Hague. The basis of the award, however, was the continental doctrine of law known in France as "*Enrichissement sans cause*," and actually included in the law of Soviet Russia. The court pointed out that although the doctrine was not fully recognised in English law, the results arising from the English action "for money had and received" on "a total failure of consideration" were often the same. Scotch law has long accorded the doctrine full recognition and a very clear statement of it appears in the judgment of the House of Lords in the Scotch case of *Cantiare San Rocco S.A.* v. *Clyde Shipbuilding Co. Ltd.* [1924] A.C. 226. The doctrine is based on the Roman procedure of Condictio, the underlying principle of which was "that a person had received from another some property, and that by reason of circumstances existing at the time, or arising afterwards, it was or became contrary to honesty and fair dealing for the recipient to retain it." The *locus classicus* on the point is contained in Lord Stair's "Institutions," Book I, Tit. 7, para. 7: "Sixthly, the duty of restitution extendeth to those things, *quae cadunt in non causam*, which coming warrantably to our hands, and without any paction of restitution, yet if the cause cease by which they become ours, there superveneth the obligation of restitution of them.' The court also decided that the conduct of the Russian Government was a breach of the contract going to the root of it, and Lena was therefore relieved from further burdens thereunder, and was entitled to pecuniary compensation for the value of the benefits of which it had been wrongfully deprived. The court, however, preferred to base its award on the principle of "unjust enrichment," although in its opinion the money result was the same. The court has done its duty well, and according to the best notions of justice and fair play, but whether the award will be capable of enforcement in any practical sense must remain in the highest degree problematical.

"An Act tending to cause a Public Mischief."

Mrs. Pither, notorious a few weeks ago, complained to the police that her baby had been kidnapped, and so occupied their time with much search and inquiry, which ceased only when another woman came forward and stated, and gave satisfactory proof, that the child was hers. She had in fact given Mrs. Pither possession of it, and lawfully taken it away again. Mrs. Pither meanwhile having registered it as her own, has been prosecuted and fined for the offence under the Registration Acts. In the course of hearing, however, Mr. Wallace for the prosecution offered the suggestion that she might also have been charged with "having done an act tending to cause a public mischief" in that she kept large numbers of police officers wasting their time and the public money. If this remarkable and ingenious suggestion ever materialises into a charge, we may observe that the magistrate who hears it would do well to invite the prosecution to establish his jurisdiction, and cite a precedent. Some research into "Russell," "Stone" and "Blackstone" has failed to reveal anything of the kind, nor can the charge be fitted into the long list of "offences against public tranquility" in the Empire Digest. Publishing false rumours, sedition, unlawful assembly, rout and riot, are all in their places, but not hoaxing police officers. Neither did Mrs. Pither commit a public nuisance within the decided cases, nor did she resist a constable or constables—indeed, she stimulated their zeal and sent them on an errand of chivalry. Possibly the birth certificate misled the police into believing her story, and for her misuse of it she has been rightly punished. People who tell lies to the police and send them off on wild-goose chases are certainly a public nuisance in one sense, and so are those of the Koepenick class, who hoax worthy mayors, but it is surely for officials to exercise their own common-sense, rather than the arm of the law to prevent impostors imposing on them. In some countries, perhaps, it may be a criminal offence to tell a lie to a policeman or a mayor, but it is submitted with confidence that this is not one of them. The official who fears his "leg is being pulled" might perhaps invite the would-be joker to make a statutory declaration—which, to vary the metaphor, would "put the boot on the other leg," as the lady who some time ago swore untruly that she had swum across the Channel found to her pecuniary loss. Possibly this might also deter the empty-headed people who untruly confess to the latest murder. But "an act tending to cause a public mischief" is an exotic which neither Mr. Wallace nor anybody else should be allowed to acclimatise on our shores.

Criminal Law and Practice.

SENTENCED FOR CARRYING A KNIFE.—A somewhat unusual case is reported in an evening paper in which a "Cyprean" (should it not be "Cypriot"?) was sentenced to twenty-one days' imprisonment for being armed with a knife. A police officer said that the man was a member of a colony in Soho, among whom stabbing is very common.

No doubt the conviction was under s. 4 of the Vagrancy Act, 1824, which brings within the category of rogues and vagabonds a person "armed with any gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, or having upon him or her any instrument, with intent to commit any felonious act."

Section 28 of the Larceny Act, 1916, renders liable to penal servitude any person who is found by night "armed with any dangerous or offensive weapon or instrument, with intent to break or enter into any building and to commit any felony therein."

Fortunately the carrying of arms is uncommon in this country, and cases under either of the enactments quoted are rare enough to excite comment.

WITHDRAWING POLICE CHARGES.—The press reports the issue of a new Metropolitan Police Order, under which "if after a charge has been accepted the police become acquainted with facts that would have caused it to be refused had such information been available earlier, the accused person must be informed of the new development without delay. It is for the accused to choose whether or not on release the charge shall be withdrawn. If he prefers such a course he may demand that the matter be heard by a magistrate. In that case he is to be released on his own bail."

We have not seen the order in question, but if it be in the terms quoted it seems just and reasonable.

Some persons wrongly accused at a police station would desire as little publicity as possible. Others, fearing that if the fact of arrest and detention should leak out, rumour would be busy, would prefer that a public hearing or a public withdrawal should take place, as the best possible vindication and the most effective way of silencing ill-natured gossip. That the choice should be left to the person accused is perfectly sensible, and the new order should be yet one more step in the direction of improving the good relations between police and public.

RIOTOUS PROSTITUTE.—Section 3 of the Vagrancy Act, 1824, enacts, *inter alia*, that every common prostitute wandering in the public streets, and behaving in a riotous and indecent manner, is an idle and disorderly person, and so subject to imprisonment for a month. It is a point of debate whether a prostitute who gets into a street fight over a matter utterly disconnected with her unlawful business is liable to this particularly heavy penalty, or whether the riotous conduct must be something arising out of her particular activities. Strictly interpreted, it would seem that the section does place her in a position, when committing general offences against public order, worse than her more moral fellow citizens, but this harsh view is rarely taken or acted upon. In a recent case at the Bow Street Police Court the learned metropolitan magistrate refused to convict under the section a prostitute who was found fighting with another woman over some dispute between them having nothing to do with the prostitute's mode of life.

THE TOWN CLERK OF BLACKBURN.

The Blackburn Corporation at their meeting on Saturday last, the 27th September, accepted the resignation of Sir Lewis Beard as Town Clerk, a position he has occupied with distinction for the past twenty-five years. Mr. Briggs Holden Marsden, solicitor, the Deputy Town Clerk, was recommended for the appointment.

Some Penal Provisions of the Road Traffic Act, 1930.

THE new law governing road transport creates new offences and modifies the old law as to others. We shall in this article take some of the principal penal provisions *seriatim* and make such comment upon each as we think may be of use to our readers.

As a preliminary to considering the penal provisions it should be briefly noted that by s. 2 of the Act all "motor vehicles," the short expression for mechanically propelled vehicles intended or adapted for use on roads, are classified. Generally speaking, tramcars and trolley vehicles (both defined in s. 121) are not included.

By s. 3 the use of any motor vehicle not complying with regulations applicable to its class and description is prohibited under a penalty, provided by s. 113, of a fine on a first conviction not exceeding £20, and, on a second conviction, a fine not exceeding £50, or imprisonment for three months. By the operation of s. 16 of the Criminal Justice Administration Act, 1914, the imprisonment may be with hard labour. This is the general penalty for "an offence" under the new Act, and we shall not set it out again.

The general prohibition as to the use of unauthorised cars and the penalty for its breach is a useful simplification of the law. It has been difficult, even with considerable research, to discover what is the maximum penalty for some breaches of the existing regulations.

The existing regulations, with some general modifications and qualifications, continue in force (s. 122).

By s. 4 (1) driving without a licence is "an offence." Failure to produce a licence when required by a police constable is subject to a penalty not exceeding £5 (s. 4 (5)), but five days' grace is allowed for the driver to produce it at any police station named by him.

Section 5 enacts certain procedure tending to secure the physical fitness of applicants for a driving licence. The would-be licensee has to make a declaration containing the material upon which the licensing authority is to judge of his fitness. A false statement will be punishable under s. 112 (2), and entails a money penalty not exceeding £50, or imprisonment not exceeding six months, or both. The accused will, of course, be entitled to be tried by jury: Summary Jurisdiction Act, 1879, s. 17 (1).

Disqualification for holding a licence, and endorsement of convictions on licence, are among the penalties provided by the Act. Section 6 deals with this matter comprehensively. The disqualification may be imposed on conviction for "any criminal offence in connexion with the driving of a motor vehicle." These words, copied from the existing law, have received full interpretation from the High Court, and it is not necessary again to discuss them here. In some cases the court has no discretion, but must disqualify. They will be noted as we go along. Endorsement is optional, save where disqualification is compulsory or where the Act specifically requires it. It is new that any disqualification may be limited to the driving of a vehicle of the same class or description as that in relation to which the offence was committed. There is an appeal against disqualification, which may be suspended pending the appeal. The provisions as to disqualification do not relate to offences against Pt. IV. of the Act, which is concerned with the regulation of public service vehicles.

By s. 7 a disqualification may be reviewed after six months (under the existing law—Criminal Justice Act, 1925, s. 40—the period is three months only). If removal of disqualification is refused another three months must elapse before further consideration.

The penalty for driving while disqualified, or obtaining or holding a licence while disqualified, is imprisonment not exceeding six months or a fine not exceeding £50, or both.

The penalty is enacted in an unusual way, meant, no doubt, to indicate that the usual punishment is to be imprisonment. There is, by s. 7 (5), an extended period for bringing proceedings for this offence. The section is by sub-s. (6) retrospective.

Section 8 deals with endorsements. They affect any licence held, or subsequently obtained, until good behaviour for a continuous period of three years entitles the holder to a clean licence. Failure to produce a licence for endorsement is "an offence." Obtaining a licence without disclosing an order for endorsement renders the offender liable to a maximum of three months' imprisonment or a fine of £50 on summary conviction, or to six months' imprisonment or a fine on indictment.

Section 9 raises the age at which a young person can obtain a driving licence, with a proviso in favour of those who during the six months before the 1st January, 1930, have been "in the habit of driving a motor vehicle." There are different ages for different classes of vehicles. It is an offence for a person to drive, or to cause or permit a person to drive, in contravention of this section.

Section 10 and the First Schedule fix maximum speeds for various classes of vehicles. Exceeding the scheduled speed is "an offence"; a passenger vehicle without a trailer and adapted to carry not more than seven passengers exclusive of the driver, and not a heavy motor car or invalid carriage, has no limit.

"Trailer" is not fully defined (see s. 18). Questions as to "caravans" may arise. It is unlikely that a person driving a light car with a light sleeping and living caravan attached will keep down to 20 miles an hour. Caravanners must hope for the mercy of "the Minister" under sub-s. (4).

The old limitation as to proof of speed by the opinion of one witness is re-enacted.

There is to be no disqualification for a first or second conviction for exceeding a speed limit.

Sub-section (5) of s. 10 provides specially heavy penalties for employers aiding and abetting "speeding," or inciting to that offence. Time-tables requiring speed limits to be exceeded are by sub-s. (6) *primâ facie* evidence of the employer's procuring or inciting to the offence of the employee.

Section 11 (1) of the new Act re-enacts, with the omission of the word "negligently," s. 1 (1) of the Motor Car Act, 1903, and it is unnecessary to discuss it save to mention the higher penalties.

These are, on summary conviction, a fine not exceeding £50, or imprisonment not exceeding four months, or both. On second conviction the fine may be £100 The "four months" was specially enacted to secure a right to trial by jury. Alternatively, the accused may be proceeded against on indictment, when he is liable to a term not exceeding six months, or to a fine, or both. Whether he be committed for trial because he demands trial by jury, or whether he be so committed because the justices, in their discretion, think better to do so, in our opinion, he incurs the liability to the higher sentence.

Endorsement of licence is compulsory on conviction under this section, and on the second conviction there must be disqualification unless the court for special reason think otherwise.

Where an aider and abettor is present in the vehicle when the offence is committed, he also incurs liability to disqualification.

Section 12 is new: "If any person drives a motor vehicle on a road without due care and attention or without reasonable consideration for other persons using the road he shall be guilty of an offence." We have no doubt that persons using the road means anyone lawfully passing and re-passing, and not merely, as has already been attempted to be suggested, a limited class such as frontagers.

A person committing an offence under either s. 11 or s. 12 must give his name and address.

Refusal, or giving a false address, is an offence, and the offender may be arrested (s. 20).

Section 13 prohibits motor racing and speed trials on highways, under a penalty of a fine not exceeding £50, imprisonment not exceeding three months, or both, plus disqualification "unless the court for special reasons think fit to order otherwise."

Section 14 prohibits driving motor vehicles elsewhere than on roads; it protects, *inter alia*, commons, footways and bridleways. The penalty is a fine not exceeding £5 on a first conviction.

Section 15 is s. 40 of the Criminal Justice Act, 1925, altered and extended. The offender need not be drunk. He offends if he "is under the influence of drink or a drug to such an extent as to be incapable of having control of the vehicle." The penalties are the same as for dangerous driving. The power of arrest is conferred, and the present device of arresting under one Act and charging under another is prohibited.

Section 16 controls pillion riding. One person only may be carried and must sit astride on a proper seat, securely fixed. The penalty on a first conviction is a fine not exceeding £5, on a second a fine not exceeding £10.

Section 19 limits the time during which the drivers of certain classes of motor vehicles may remain on duty. Contravention of the section is "an offence."

Section 21 imposes certain restrictions on prosecutions. There must be warning at the time of any offence of exceeding a speed limit, and of reckless or dangerous or careless driving, or a summons or a notice of intended prosecution with particulars must be served within fourteen days. The requirement is deemed to be complied with in the absence of proof to the contrary, and failure to comply with it is not a bar to conviction, if neither the name and address of the accused nor that of the registered owner can be ascertained in time, or the accused by his own conduct contributed to the failure.

The duty to stop in case of accident is extended by s. 22, and failure is "an offence."

Section 28 deals with joy-riders, by making it an offence to take or drive away a motor vehicle without having either the consent of the owner or other lawful authority. By s. 39 of the Summary Jurisdiction Act, 1879, the onus of proving the excuse falls on the defence. The penalties are, on summary conviction, a maximum term of three months' imprisonment, and a fine of £50; on indictment twelve months' or £100, or both.

Reasonable belief of the defendant that he had authority, or would have had consent if asked for, is a defence.

On an indictment for larceny of a motor vehicle the accused may be convicted under this section.

Section 29 prohibits getting towed without permission, under penalty of a fine. Getting on a parked vehicle or tampering with its mechanism is "an offence."

Lawyers on Holiday.

(From our Special Correspondent.]

Monday, 1st September.

This is Labour Day, and everyone in the U.S.A. is making holiday. At 10 a.m., with a number of our hosts and their charming wives and daughters, we boarded the s.s. "Chauncey M. Depew," and steamed down the East River, round Manhattan Island, and through Upper New York Harbour, getting a fine view of sky-scrapers and ocean liners; then up the Hudson River, past the Palisades (as the cliffs are called), up into the Highlands of the Hudson, having lunch *en route*. At Bear Mountain Park we entered a fleet of coaches and were driven through some very fine hill scenery, with delightful woods, camping grounds, and lakes, which constitute the magnificent Bear Mountain Park, a natural mountain playground covering 47,000 acres of, practically, unspoilt country.

At West Point, the famous U.S. Military Academy, we were privileged to see a special dress parade of some 1,200 cadets in the full-dress uniform of 100 years ago—grey swallow-tailed coats, white trousers and grey busbies, and, considering 400 of these boys only joined up on 1st July, the march past was something to be proud of. After the parade we motored to the summit of the Storm King Highway, where Rip van Winkle is said to have slept peacefully for so many years; then back to our steamer, and, with dinner on board and many of the fine sky-scrapers lit up for our special benefit, we reached our hotel about 10 p.m.

Tuesday, 2nd September.

There were numerous opportunities for instruction and amusement to-day and personally conducted parties visited the Metropolitan Museum of Art, the Public Library and the American Museum of Natural History. In the afternoon there was a crowded reception given by the Association of the Bar of the City of New York at their fine club house, and at 8 o'clock we all dined, as the guests of the Six Bar Association of the City of New York, at The Plaza Hotel.

Wednesday, 3rd September.

We spent the morning making another tour of the city, visiting St. Paul's Church, where some of us inspected the fine silver alms dishes presented to the church by a succession of English Sovereigns from QUEEN ANNE downwards, then to the Police Headquarters, where an expert on Ballistics explained, with the help of photographs and microscopes, how a bullet fired from a murderer's "gun" can be identified with the gun itself—and we also had a lecture on finger prints. We then visited the Stock Exchange, and from a gallery watched the chaotic scene on the floor of the house, where jobbers in excited groups bought and sold various stocks and a crowd of messenger lads flew to and from the stands where brokers' clerks were busy sending telephone messages to their various offices. At one o'clock we were whisked up, at lightning speed, to the fifty-fifth floor of the Bank of Manhattan Building, where the President, Mr. STEPHEN BAKER, entertained us to one of the most excellent lunches we have sat down to. The foundations of this huge building descend for ninety-five feet below the road level, and its fifty-five storeys extend skywards for 925 feet, and we were assured that in a seventy mile an hour gale the top sways from sixteen to eighteen inches without causing the occupants any alarm. The luncheon produced a capital speech from Mr. JAMES CASSEL, K.C., and it seems a little unfortunate that, with good speakers in our midst, we should have to listen to many mediocre speeches. At 3.30 we drove off some twenty miles, to a garden party, at the Long Island home of Mr. CLARENCE H. MACKAY, who, I may be forgiven for explaining to the uninitiated, is one of New York's best known millionaires. We found "Roslyn" a delightful house in beautiful grounds, containing a very fine collection of armour and other treasures, and here we enjoyed a well-served and bounteous tea with "American Fixings." Some of the party drove back to the hotel, but two or three coach-loads had a long and rather tedious drive to Coney Island, which we had been told was a place we ought to see. I can best describe it as a very glorified Blackpool, with miles of "Broad-walk" along the sea front, and hundreds of acres of shops, shows, switchbacks, scenic railways, giant wheels and restaurants, all illuminated by countless millions of electric lights and signs. We were given fish supper and free tickets for Luna Park, to which place we were escorted by a band, and of all the incidents of the tour which will dwell in my memory the one that I shall most enjoy was the sight of a body of staid lawyers, and their womenfolk, marching behind a band to the joys of an amusement park. We were a very tired party by the time we got back to the hotel at midnight.

Thursday, 4th September.

At 11 o'clock there was a presentation of Degrees at the Columbia University to our Alumni, and I think they should be compelled, at the next "Grand night" at their respective Inn, to wear all the various hoods which they have received on this side of the Atlantic. At 12.30 we were received by Mayor JAMES WALKER at the City Hall, and there was a reception at the New York County Lawyers' Club at 3.30. I contented myself by attending a reception in the fine Hall of the Chamber of Commerce fixed for 1.15 p.m., followed by an al fresco luncheon, but clam soup and hot chicken pie were too much for me, and, after listening to the inevitable speeches, I fled and had a quiet lunch by myself. At 6 o'clock we boarded the s.s. "New York," and, with the sun shining and lighting up the sky-scrapers, we steamed out of the East River and down Long Island Sound en route for Boston. Once more we had to thank our kind hosts for an excellent dinner, and only those who have travelled in the States can imagine the comfort it is to be saved all trouble about baggage and to have it collected at the hotel and waiting in our cabins for us.

Friday, 5th September.

We were timed to reach our hotel at Boston at 8 a.m., but at 7 a.m., as the result of fog, we found the ship anchored on the south side of the canal, an artificial cut through this low-lying country which reduces the journey by some 70 miles. This delayed us for over three hours, so that it was 11 o'clock when, with every ship in the harbour blowing its syren and two fire floats sending up fine jets of water, we tied up at Boston.

We drove direct to the State House where, in the Hall of Flags, we were welcomed by the Governor of Massachusetts. From the balcony of this building the Declaration of Independence was read on the 18th July, 1776, and the Treaty of Peace was proclaimed in 1783. We had lunch in the Faneuil Hall, known locally as "The Cradle of Liberty," but the fact that we had round us pictures of the Battle of Bunkers Hill and other famous battles of the War of Independence did not in any way spoil our appetites. During lunch the Mayor presented to Lord TOMLIN a key of the city made from the "Lexington Elm," this being, or perhaps I should say *having been*, a tree which grew near the spot where the shot "heard around the world" was fired. This sounds to us somewhat of an exaggeration, but there can be no doubt that Lexington is in the eyes of Bostonians a very holy place. To Sir JOHN SIMON, Mr. Justice HANNA, Mr. LEADBETTER, K.C., and one other worthy whose name has escaped me, walking sticks made from the same sacred tree were presented. After lunch we were given an opportunity "to visit anything desired in Boston," and while some visited the Gardner Museum, and others the Wellesley College for Women, a few less ardent souls, including at least two judges, preferred to see the national game of America and watched Boston beat Chicago at baseball. At 8.30 we sat down to a banquet at the Statler Hotel as guests of the Bar Association of Boston and had what was described as "a New England shore dinner," and it may interest gourmands on the other side to peruse the menu:—

Cape Cod. Oyster Cocktail.

Clam Broth with Whipped Cream.

Ripe and Green Olives. Radishes. Hearts of Celery.

Poached Boston Cod. Hollandaise.
Shredded Cucumber.

Boston Baked Beans and Brown Bread.

Broiled Live Lobster.
Corn Fritter. Shoestring Potatoes. Stuffed Tomatoes.

Water Melons.

Demi-Tasse.

If I make no comments on the speeches which followed, the dinner is entirely responsible.

Saturday, 6th September.

The programme for to-day included a visit to Cambridge and Harvard University, a meeting in the court room of Langdell Hall at noon, lunch as guests of the Faculty of the Harvard Law School and tea and supper at the County Club at Brookline.

Sunday, 7th September.

This memorable visit overseas came to an end to-day, most of the party returning to England on the s.s. "Scythia." No party of 235 people ever toured Canada and the United States in such comfort, or were so lavishly and generously entertained, and I venture to place it on record that we parted from our many friends with profound regret, and shall ever feel for them the warmest regard and gratitude for their splendid hospitality.

(*Concluded.*)

Company Law and Practice.

XLVI.

Borrowing Powers.

Borrowing powers must be considered in two phases: first, the borrowing powers of the company; and second, the borrowing powers, if any, of the directors. Broadly speaking, whether the memorandum expressly confers a power to borrow or not, any company which carries on a trade or business has an implied power to borrow. But it is clear that it is not every company which has a power to borrow implied, for such power must be properly incident to its business, and it is not every company of which this can be said. It can, however, safely be said of all companies of the type which we mean when we speak of commercial companies. Incidentally, one may observe in passing that there is no better illustration in the whole of company law of the confusion of objects and powers, which results in the placing in the memorandum of association of every company, or nearly every company, of a borrowing power; for a power to borrow cannot by any possible stretch of the imagination be said to be an object of the company. The memorandum was designed to contain the objects of the company, and not a whole series of miscellaneous powers, which, while no doubt they are intended to be conducive to the attainment of the objects of the company, are certainly not objects themselves. It may be noticed that Table B in the First Schedule to the Act of 1929, which contains the statutory form of memorandum of a company limited by shares, sets out in five lines the objects of the company, whereas the objects of most companies now occupy as many pages in their memoranda.

However, it is now much too late to hope for the appearance of logic in a matter of this sort, where custom is so prevalent, and indeed it may be more convenient from some points of view to have some of the more important powers set out in the memorandum. In any event, for the purpose of this article, we may say that it is a somewhat unusual form of corporation which is unable to borrow money; but how such borrowing may be effected is an entirely different matter.

While borrowing may not be, and usually is not, *ultra vires* a company, it may be *ultra vires* the directors, either because they have no borrowing powers, or because such borrowing powers are limited and have been exhausted, the latter being by far the more common of the two situations. Frequently, the articles give the directors of a company unlimited borrowing powers, but the regulations of the Stock Exchange lay it down as a condition precedent to the obtaining of an official quotation that the borrowing powers of the directors should be limited. Wisely, no doubt, the Stock Exchange does not commit itself as to how, or to what extent, such borrowing powers must be limited, so that one has no option but to find out in each case whether the limit meets with the Stock Exchange approval. It seems a pity, however, that there is no sort of official guidance, and if the committee passes a limit of twice the capital for the time being issued, why not ten times, or a hundred times?

It behoves persons who intend to lend money to a company to exercise care, where the borrowing powers are limited, and to abstain from lending if the proposed loan would be in excess of the powers, for any lending over the limit creates no debt, either at law or in equity, and securities given therefore are of no effect. But borrowing which is only *ultra vires* the directors can be ratified by the company, and if it is so ratified, it becomes valid, and creates an enforceable debt (*Irvine* v. *Union Bank of Australia*, 2 A.C. 366).

The principle of subrogation has been applied to *ultra vires* borrowing, so that, where the amount lent in excess of the limit is applied in paying off a valid debt of the company, the lenders can stand in the shoes of the creditors so paid off to the extent of the payment off (*Sinclair* v. *Brougham* [1914] A.C. 398, at pp. 440, 441, per Lord Parker of Waddington).

In considering whether the limit has been, in any particular case, reached or passed, it is necessary to take into consideration every form of borrowing by the company. Thus, it might be thought *primâ facie* that an overdraft of the company at its bank was not a borrowing for this purpose, but it quite clearly is, in spite of the fact that it is frequently of a purely temporary character (*Blackburn Building Society* v. *Cunliffe Brooks & Co.*, 22 Ch. D. 61; *Re Pyle Works* (*No.* 2) [1891] 1 Ch. 173).

In *Re David Payne & Co.* [1904] 2 Ch. 608, the memorandum contained a power to borrow and raise money for the purposes of the company's business, and by the articles the directors could exercise this power. The question which arose was whether a lender was bound to inquire into the purpose for which the money to be borrowed was to be applied, for here the company did not apply the loan for the purposes of its business. It was held by Buckley, J., and the Court of Appeal, that a lender was not so bound, Buckley, J., saying, in a passage expressly approved by Cozens-Hardy, L.J.: "Where the power is merely a general power to borrow, limited only, as it must be, for the purposes of the company's business, I think the matter is to be treated in this way, that the lender cannot investigate what the borrower is going to do with the money; he cannot look into the affairs of the company and say: 'Your purposes do not require it now; this borrowing is unnecessary; you must show me exactly why you want it.'" Any other result would make the carrying on of business a difficult affair, but there certainly were, prior to this decision, suggestions, not to put it any higher, that the lender was put on inquiry (*Davis's Case*, L.R. 12, Eq. 516). Of course, if the lender had actual knowledge that the money was going to be misapplied, the position would have been different.

(*To be continued.*)

RE-OPENING OF THE LAW COURTS

Monday, 13th October, 1930.

On the occasion of the re-opening of the Law Courts, a special service, at 12 noon, will be held in Westminster Abbey, at which the Lord Chancellor and His Majesty's Judges will attend.

In order to ascertain what space will be required, Members of the Junior Bar wishing to be present are requested to send their names to the Secretary of the General Council of the Bar, 5, Stone-buildings, Lincoln's Inn, W.C., before 4 p.m. on Friday, the 10th October.

Barristers attending the service must wear robes. All should be at the Jerusalem Chamber, Westminster Abbey (Dean's Yard Entrance), where robing accommodation will be provided, not later than 11.45 a.m.

A limited number of seats in the South Transept will be reserved for friends of Members of the Bar to whom two tickets of admission will be issued on application to the Secretary of the General Council of the Bar.

No tickets are required for admission to the North Transept, which is open to the public.

WILLIAM A. JOWITT,
Attorney-General.

Lord Birkenhead as a Judge.

[CONTRIBUTED.]

So much has been written in the press of the general details of Lord BIRKENHEAD'S career that the vast majority of our readers have no doubt read all the salient facts of it. Much has been said of him as an adventurer (in the good sense of the word), an orator, a politician, an after-dinner speaker, and a friend, and the eulogies on him in all these respects are no doubt justified. It is particularly within the province of this journal, however, to consider his permanent influence on our law. As Lord Chancellor he could exert this influence both by his advantageous position in promoting statute law, and his decisions as a judge in a court from which no appeal lies, save to Parliament. That that influence was powerfully used to promote the Law of Property Act, 1922, later repealed and re-enacted with amendments in the 1925 Acts, no one can deny, but the credit for devising the new schemes which have so profoundly affected conveyancing and the law of property would never have been claimed by him, and perhaps his deepest impress will be left as a judge rather than a legislator. No doubt every Lord Chancellor, if only by his precedence in judgment, must affect the minds and opinions of his colleagues, but his personal dominance is a variable factor. Within living memory, it is hardly possible to dispute the claim of Lord HALSBURY to a greater degree of such dominance than any of his predecessors or successors, but Lord BIRKENHEAD has certainly claims for the second place, and that in a House with such men as Lord BUCKMASTER and Lord CARSON, who certainly were not more inclined to concur with other men's judgments than any of Lord HALSBURY'S colleagues. Perhaps one of the most striking instances of that influence, extending for this occasion to lay as well as law lords, was that of *Viscountess Rhondda's Claim* [1922] 2 A.C. 339. Lady RHONDDA had presented a petition that she should sit and vote in the House of Lords, and it was referred in the usual course to the Committee of Privileges. The then Attorney-General, Lord HEWART, offering no opposition, the Committee reported in favour of the claim, but soon after, on the motion of Lord BIRKENHEAD as Chancellor, the report was sent back to the Committee for re-consideration, and the claim, at his instance, and almost at his dictation, was rejected. At least one Peer, Lord PHILLIMORE, who had voted for the claim on the earlier hearing, reversed his vote on the re-consideration after hearing Lord BIRKENHEAD. Instead of a unanimous vote for Lady RHONDDA, there was then a vote of twenty-two to four against her, and the ruling so given entirely prevents Peeresses exercising legislative functions. It may be added that Lord BIRKENHEAD'S judgment occupies over thirty pages of the report, and there is not a dull word in it.

His first case as Lord Chancellor, reported in the Law Reports about two months after he had taken office, appears to have been an Irish one, *McEllistrim* v. *Ballymacelligott Co-Operative Agricultural & Dairy Society Limited* [1919] A.C. 548, mainly an authority on "radius agreements," in which he delivered a judgment with which Lords FINLAY, ATKINSON and SHAW OF DUNFERMLINE concurred, Lord PARMOOR dissenting. Another delivered by him on the same subject about two years later is of more interest to the profession, namely, that in *Fitch* v. *Dewes* [1921] 2 A.C. 158, when the House, unanimously affirming both courts below, decided that, in the case of solicitors, no time-limit is necessary for so limited a radius as seven miles.

One of his earlier cases, *Bourne* v. *Keane* [1919] A.C., may be cited to show his boldness and the independence of his mind. The question was whether the bequest of a Roman Catholic testator for masses was valid. EVE, J., and the Court of Appeal, weighed by authority, had declared against the bequest. Lord BIRKENHEAD swept away *West* v. *Shuttleworth* (1835), 2 My. & K., 684, a decision of Lord COTTENHAM, and a chain of other authorities depending on it, and declared for the validity of the gift. His learning and industry are apparent on the face of his judgment, which was too strong for one colleague, Lord WRENBURY, who objected to throwing over what he considered settled law. Perhaps Lord BIRKENHEAD'S dislike of being fettered by what he believed to be bad precedents may be compared with the overruling by his predecessor, Lord HALSBURY, of *Cochrane's Case* (1840), 8 Dowl. 630, in *R.* v. *Jackson* [1891] 1 Q.B. 671.

In "*The Volunte*" [1922] 1 A.C. 129, Lord BIRKENHEAD delivered a judgment which, in the words of Lord FINLAY, who immediately followed him, was "a great and permanent contribution to our law on the subject of contributory negligence, and to the science of jurisprudence." Lord SHAW OF DUNFERMLINE "ventured to concur with my noble and learned friend as to the quality of that judgment." Such praise is not given as of course to any Lord Chancellor.

In the same volume, p. 1, will be found *Sutters* v. *Briggs*, a decision of importance to racing men, and well illustrating the chaos of our gaming laws. In that test case Lord BIRKENHEAD and four other judges finally interpreted s. 2 of the Gaming Act, 1835, against the holder of a cheque for a bet, who had passed it to his bank for collection, and shortly afterwards he presented a bill, passed into law as the Gaming Act, 1922, to repeal the main provisions of the old Act, and avoid its absurd results. One may perhaps express regret that his brilliant mind could not have been occupied in reforming the law as to gaming and betting as a whole.

In *Wakeford's Case* [1921] 1 A.C. 813, Lord BIRKENHEAD and three other law lords, with four bishops as assessors, had the painful duty of pronouncing against the late Archdeacon, and the principles as to leave to appeal to the Privy Council were re-stated in the judgment, which was delivered by him. In *Home Secretary* v. *O'Brien* [1923] A.C. 603, he gave a ruling, very unwelcome to the then government, and contrary to the advice received by them, that certain Irish prisoners had been illegally deported to Dublin and interned there.

Another most important decision of his was that in *Russell* v. *Russell* [1924] A.C. 687, laying down that a husband cannot give evidence to prove that his wife's child is illegitimate, which we had recent occasion to criticise (74 SOL. J. 510). Mention must also be made of his judgment in *Edwards* v. *Porter* [1925] A.C.1, the case which finally established a husband's liability for his wife's torts. From that conclusion Lord BIRKENHEAD, with whom Lord CAVE associated himself, dissented, and those who have carefully studied the matter may prefer his judgment to that of the majority.

Brilliant, intrepid and learned, he has left an indelible mark on our law, and his proper successor will not be easy to find.

A Conveyancer's Diary.

Joint Wills.

In a letter published last week Mr. E. O. Walford says that I was under a misapprehension in stating in my Diary for the 13th September that a joint will, properly so called, is one which is made by two persons to take effect after the death of both and cannot be admitted to probate until the death of the survivor. Mr. Walford mentions *Hobson* v. *Blackburn* (1822), 1 Add. 274, and says that he believes that in either "Theobald" or "Jarman," or both, will be found a statement to the contrary of what is stated in the passage in my Diary to which he refers.

I have not looked at "Theobald," but I find in "Jarman," 7th Ed., Vol. I, at p. 43, the following paragraph :—

> "Two or more persons may make a joint will which if properly executed by each, is, so far as his own property is concerned, as much his will, and is as well entitled to probate on his death, as if he had made a separate will.

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But a joint will made by two persons to take effect after the death of both, will not be admitted to probate during the life of either."

It may be of interest to consider the case to which Mr. Walford calls attention, and the cases cited in "Jarman" in support of the editor's view.

In *Hobson* v. *Blackburn* (*ubi supra*) two sisters and a brother made what is, in the report, called a "mutual or conjoint" will, which was rather in the form of an agreement than of a will. The document commences as follows—"We Martha Susannah and Joshua Hobson being in health of body and sound of mind do agree to the following assignment of our property in case of each other's decease, exclusive of five hundred pounds the disposal of which we propose leaving a memorandum of according to our particular liking. The remainder of our property we resolve to be left in this manner. The whole of the interest in it, excluding the above-mentioned five hundred pounds, shall devolve to the longest life or lives while continuing single." Then follow provisions as to what was to happen if any of them married. The document concludes: "We agree to leave each other with our brothers William and George Hobson executors to this our last will and testament to which we put our hands" etc.

The brother died first and probate of the joint will, so far as regarded his effects, was granted to the three executors named therein.

Then one of the sisters died, having made a later will, and an application for a grant of letters of administration with the will annexed of the estate of the deceased sister was opposed by the executors of the joint will on the ground that the latter was irrevocable, and that consequently the later will of the deceased sister was ineffective.

It was held that the alleged irrevocability of the joint or mutual will destroyed "its essence as a will" and converted it into a compact and letters of administration were granted of the deceased sister's estate.

It will be noticed that the so-called joint or mutual will in that case was not the kind of will to which I was referring in the passage to which Mr. Walford takes exception, because it was not "one which is made by two persons to take effect after the death of both." The document was intended to become effective on the death of any one of the parties.

Passing now to the cases mentioned in "Jarman."

In the Goods of Raine (1858), 1 S.W. & Tr. 114, is the first. In that case two brothers made a joint will, by which firstly they bequeathed a legacy to a nephew "to be paid to him at the expiration of twelve calendar months after both our decease," and a legacy to a sister to be "paid to her twelve calendar months after both our decease"; secondly, they bequeathed the residue of their personal property to the nephew "to take possession of the same immediately after both our decease" and lastly devised certain real property to the nephew providing that he was to take possession thereof "immediately after both our decease."

On the death of one of the testators, probate was refused on the ground that the will was "to have no effect till after the death of both." Referring to *Hobson* v. *Blackburn* and other cases cited, Sir C. Cresswell said: "It is distinguished from the cases referred to; it is not a mutual will which purports to leave to the survivor of one or more parties the property of the other; nor is it such an instrument as that *In the Goods of Strasey*, calling itself a joint will where the husband and wife disposed of separate properties over which they had respectively powers of appointment."

The other case cited in "Jarman" is *In the Goods of Piazzi-Smyth* [1898] P. 7. In that case there was a joint will which was divisible into three parts, the will of the husband, the will of the wife and the joint will of them both, which was only to come into operation on the death of both.

The wife having died, probate was granted only of so much of the will as became operative on her death.

That decision therefore supports *In the Goods of Raine*, and is a further authority for my statement that a joint will which is only to take effect after the death of both testators will not until then be admitted to probate.

It is stated in "Williams on Executors," 11th Ed., p. 7, that *In the Goods of Raine* was disapproved in *In the Estate of Heyes* [1914] P. 192. I do not think that it was.

In the latter case a husband and wife who were joint tenants of leasehold property made mutual wills (each making a separate will) the arrangement between them being that the wills were to be irrevocable. The husband died and his will was duly proved. The wife made a later will revoking her earlier will made under the arrangement with the husband. It was held that the later will of the wife must be admitted to probate, leaving it to the parties concerned to take proceedings in the Chancery Division to enforce the agreement under which the mutual wills had been made. Sir Samuel Evans said: "In this case upon the death of the husband his will . . . could be proved by the executors. If the case of *In the Goods of Raine* contains any decision to the contrary, I am of opinion that that is no longer law." In fact that case did not contain any decision to the contrary. The will of the husband in *In the Estate of Heyes* was effective on his death, because it gave everything to the wife for her life. It was, therefore, not a will which was only to take effect on the death of both, as was the will in *In the Goods of Raine*.

I think that I have justified the statement to which Mr. Walford calls attention, but of course, in saying that such a will as that to which I was referring was "a joint will properly so called," I was only expressing an opinion on a matter of terminology.

It is obvious that a will of that kind could only be one disposing of property belonging to the testators jointly.

I need hardly say that I made no suggestion that such a joint will was irrevocable by either party. Irrevocability is of the very essence of a will, as was pointed out by Sir John Nicholl in *Hobson* v. *Blackburn*. A document which cannot be revoked may be good as an agreement but not as a will.

I have only to add that I am much indebted to Mr. Walford for his letter. Criticism is always welcome. I have also to thank him for a further letter passed on to me by the Editor after I had written the above, the points in which have, I think, been dealt with in this article.

Landlord and Tenant Notebook.

Rights Against Fire Insurance Companies.

The legislative provisions affecting the expenditure of insurance money payable in respect of fire are somewhat antiquated. Possibly in the near future lessons will be learned from the working of the Road Traffic Act, 1930, and the legislature will turn its attention to the position of a landlord or tenant whose property has been destroyed by fire. There is, of course, at present no duty on either (apart from agreement) to insure the premises. When they are insured, and a fire takes place, the Fires Prevention (Metropolis) Act, 1774—also known as the Building Act, 1773—gives anyone interested the right to have the money spent on or towards rebuilding; but the procedure indicated makes the Act difficult to apply in some cases.

That procedure involves a request to the insurance office to cause the money to be laid out in the manner stated. In *Simpson* v. *Scottish Union Insurance Co.* (1863), 1 H. & M. 618, the efforts of the plaintiff and his solicitor, who had undoubtedly understood and followed the spirit of the section, were defeated owing to their having taken the wrong steps to secure their object. The plaintiff was landlord and the property had been duly insured by the tenant in accordance with a covenant. After a fire, the plaintiff asked the defendants to withhold

payment from the tenant; they agreed, but soon afterwards settled with him. Meanwhile the landlord commenced rebuilding, and his solicitor applied for funds, citing the Act. The subsequent action was dismissed because the section demands a "distinct request" etc., and gives no right to a money payment.

A matter which may puzzle insurance companies as much as landlords and tenants is the question how the request is to be enforced. It was said *obiter* in *Ex parte Gorely*: *In re Baker* (1864), 4 De G., J & S. 477, that, the duty being statutory, *mandamus* would lie. This proposition was dissented from in *Wimbledon Park Golf Club, Ltd.* v. *Imperial Insurance Co.* (1902), 18 T.L.R. 815, an application by a tenant. The defendants had purported to avail themselves of one of the two conditions mentioned at the end of the section under which their responsibility ceases: amicable settlement, and security that the money will be laid out in the manner provided. In this case they had taken a bond from the landlord, no sureties etc. being asked for. It was held that *mandamus* would not issue, and said that the applicant should have asked for an injunction to restrain the company from parting with the money unless adequate security had been provided.

In the above case it had been agreed between landlord and tenants that the property—a club-house—was not to be rebuilt in the same way; and this suggests another difficulty arising out of the wording of the statute. The insurance office must cause the money to be laid out in or towards rebuilding; how is it to perform this duty? Has it a right of entry? In the case referred to the court referred to this difficulty and pointed out that it would not grant a *mandamus* compelling the erection of a building, nor was the company liable to build or entitled to enter. The point was again alluded to in *Sun Insurance Office* v. *Galinsky* [1914] 2 K.B. 545, C.A., in which the tenant had commenced rebuilding and wrote to the company suggesting that they should adopt the proceeding, while the landlords put in a formal demand under the section. The matter then came before the courts in the form of an application by the company for interpleader, which the Court of Appeal held to be an inappropriate remedy. Vaughan Williams, L.J., thought that the tenant's letter did not amount to a claim; the other judges held that even if it did, it was not a case of adverse claims: what was in issue was what was the obligation due, not to whom something was due. On this there could be no interpleader; and the learned judges refrained from expressing any opinion as to what was the obligation due. But some doubt was expressed as to the correctness of the decision in *Wimbledon Park Golf Club* v. *Imperial Insurance Co., supra;* and in the result it is difficult to advise landlord or tenant as to how in such cases insurance companies can be forced to comply with their duties, or whether, if they were to undertake rebuilding, access could be legally refused.

One point which used to be raised whenever premises outside the Metropolis were concerned can now be regarded as definitely settled. It was held in *Ex parte Gorely: In re Baker, supra,* that by virtue of its own little preamble the section extended to the whole of England, though the actual preamble to the statute suggested that it should only apply to London. This decision was followed in several later cases in which the point was taken, but some doubt was expressed, *obiter,* by Lord Selborne in a Scottish case (*Westminster Fire Office* v. *Glasgow Provident Investment Society* (1883), 13 A.C., at p. 713); the interpretation accepted in the older cases, however, has now been approved in *Sinnott* v. *Bowden* [1912] 2 Ch. 414.

At a special meeting of the Renfrew Town Council, Mr. E. D. ANDERSON, solicitor, Paisley, was appointed Town Clerk of the Burgh of Renfrew. Mr. Anderson has acted as the interim Town Clerk since the death of Mr. A. R. Harper in the early part of last year.

Our County Court Letter.

SHAREHOLDERS' LIABILITY AS CONTRIBUTORIES.

THE validity of alterations to rules was recently considered in *In re West Wales Farmers' Dairy Society Limited,* at Carmarthen County Court, on an application by the liquidator that three respondents should be placed upon the list of contributories. The society was registered in 1918, when the members subscribed £1 per share for each cow owned, but more money was soon required, and, at a special general meeting in 1919, the value of the shares was increased to £3 each. The society traded until 1922, when there was a deficiency of £52,000, and in 1924 a resolution was passed for a voluntary winding up, which was ordered to be subject to the supervision of the above court in 1925. The liquidator demanded the extra £2 per share in 1926, but the respondents denied liability and counter-claimed for milk supplied. His Honour Judge Frank Davies observed that the amended rules of 1919 had no force until registration, which took place in May, 1920, but even then they were not acted upon, as (1) no new certificates were issued to old members, (2) none of the certificates ever showed the value of the shares, (3) no attempt was made to call up more than £1 per share, and (4) no notices of the amendment were circulated. Eighty-five pounds was claimed against the first respondent, who (although present at the meeting) had neither assented to nor dissented from the proposed amendment, which was not proved to be binding upon him. Having paid into court £15 (on the basis of £1 per share) he was therefore liable only for costs up to the date of payment in. The second respondent had had no opportunity of expressing an opinion upon the amendment, and was not liable for the balance on eight shares, viz. £16. The third respondent had joined before the amendment (and not afterwards, as stated in the register) and, having expressed his dissent, he was not liable for any sum beyond £10, which the society had already deducted in remitting a sum due for milk supplied. The second and third respondents were awarded costs, but not against the liquidator personally.

The above subject had previously been considered in *In re Wilts and Somerset Farmers Limited* [1929] 1 Ch. 321, in which the society had been registered in 1910, with a rule providing that a member should hold one share for every 20 acres. This was amended in 1921 to five shares for 20 acres, and in 1922 a further amendment stipulated that the five shares should be of the nominal value of £5 each. The society went into voluntary liquidation in 1923, and the liquidator claimed that the five respondents (who all joined before 1922) should be placed upon the list of contributories, but liability was disputed on the grounds that (1) the alteration in the rule was no part of the contract between the society and the respondents, who were therefore not bound thereby, (2) the amendments were void for uncertainty. Mr. Justice Romer (as he then was) held that the liability to take additional shares was validly imposed, and the decision was affirmed by the Court of Appeal, Lord Hanworth, M.R., Lord Justice Lawrence and the present Lord Russell of Killowen.

This judgment on the first point followed *Biddulph and District Agricultural Society Limited* v. *Agricultural Wholesale Society Limited* [1927] A.C. 76. The House of Lords there held that a collateral obligation to take up further shares was not *ultra vires,* or repugnant to the limitation of liability in winding up contained in the Industrial and Provident Societies Act, 1893, s. 60. The House doubted, however, whether a member would be bound who had not assented to the alteration, and a written consent to the amendment is now required under the Industrial and Provident Societies (Amendment) Act, 1928 (18 Geo. 5, c. 4), s. 1.

Mr. FREDERICK WILLIAMS MORGAN, solicitor, Hastings, has been appointed Deputy Registrar of the Hastings County Court vice Mr. Cuthbert Hayles, deceased.

Practice Notes.

SECONDARY EVIDENCE OF NOTICE TO QUIT.

An old but still binding decision was relied upon in *Cheshire* v. *Gunstone*, recently heard at Kidderminster County Court. The plaintiff claimed possession of a dwelling-house on the ground of arrears of rent, and, after evidence had been given of the weekly tenancy, and the amount claimed (£14), a copy of the notice to quit was put in. His Honour Judge Roope Reeve, K.C., held that this was not admissible, as no notice to produce the original had been given. An *amicus curiæ* then referred the court to *Fleming* v. *Somerton* (1845), 7 Q.B. 58, in which it was held that a written notice to quit may be proved by production of a copy, although no notice has been given to produce the original. His honour thereupon allowed the copy notice to be put in, after evidence of the posting of the notice and production of the receipt for the registered letter. An order was made for possession in six weeks, with judgment for £14 and costs, payable at the rate of £1 a month.

THE RIGHTS AND LIABILITIES OF CARAVANNERS.

(*Continued from* 74 Sol. J. 531).

II.

The exemption from liability for rates may be outweighed by the consequent disabilities, as shown by the recent case of *Skegness Urban District Council* v. *Shaw and Others*, in which the complainants asked for orders prohibiting the use of certain land for caravans, owing to the lack of a proper and wholesome supply of water. The first defendant's case was that his delicate son had been ordered sea air treatment, and therefore he had bought the caravan, but he had not meant to occupy it prior to obtaining a proper water supply. This had been refused by the complainants, who also would not have consented to his sinking a well, so that (after paying a rent to the water department) he had been going to the tap of a neighbour, to whom he paid twopence a week. The complainants alleged that the water department had been induced to issue their receipt in ignorance of the fact that another department had refused a supply, but the contention for the defendant was that the acceptance of the water rent was a waiver by the complainants of their right to ask for a prohibition order. The chairman (Mr. F. Acton) observed that if some of the vans were to be got rid of, it was unfortunate that this could not be done in clear terms, but in the circumstances the prohibition order would be granted. It had transpired that the defendants could not demand a water supply, as they paid no rates, and that the proceedings were instituted as a means of clearing the site.

Alice in Police Court Land.

Being a jumble of things that have happened, a little exaggerated in the telling.

IV.—Amazement.

"Why are they never the same people on the Bench?" Alice asked her friend.

"Well, you see they're on a roter," said the bear.

"What's a roter?" said Alice.

"Do you know what a rotary club is?" said the bear.

"Yes, indeed," said Alice eagerly. "I heard father say the other day that it's what the Irish call a shillelagh. And they all run round treading on one another's coat tails."

The bear ignored these observations. Perhaps he was right.

"A roter," he said, a little peevishly, "is like a rotary club, only it's different. Now you know."

Alice didn't know a bit, but she didn't like to say so, and took refuge in silence.

"Si-lence," shouted the usher like an echo.

"This is our husband and wife day," whispered the bear to Alice, "and don't Lord Lyon just bite their heads off."

Alice looked horrified. "Don't be silly," said the bear, "I mean he jumps down their throats—gives them the rough side of his tongue."

Alice remembered the story of the tame tiger who licked his master's hand till the blood came, and she shrank from the forthcoming sanguinary scenes.

"You are a great stupid," said C.2 All.

"But," said Alice, who had several times been puzzled by having the bear answer her thoughts as though she'd spoken, "how did *you* know what I was thinking?"

"Ah," said he, importantly, "I'm practising to be a detective, and a detective has to know what people are thinking, without being told." "I like being in plain clothes," he added.

"Well," thought Alice, "he can't be in much plainer clothes than he is now."

"I can take off my numerals, can't I, silly," said the bear.

"Si-lence," said the penguin as one meaning to be obeyed.

The first case came on. The husband, a miserable looking animal who, his wife said, was a skunk—and Alice took her word for it—was said to be an habitual drunkard.

Once started Mrs. Skunk could not be stopped till her breath gave out. "We live in arfernouse, and sleep bread and butter fashion, us and the nine children, but three of 'em are dead. 'E's been charged once before with melodiously wounding me, and only yesterday 'e said 'e'd make a box of cold meat of me, and 'e called me a 'skinny-gutted 'uman 'airpin,' and if I am skinny gutted it's 'is fault, for 'e don't give me no money from one year's end to another. Look at 'im now. 'E's drunk, 'e is; 'ad a 'air of the dog that bit 'im 'e 'as, and now the dog's bit 'im again. Why, only 'arf an hour ago 'e said my hour was come."

"STOP WOMAN," roared Lord Lyon. "Why did he call you 'old scum'"?

"No, 'e said my hour 'ad come. I was in the kitchen."

"What were you doing at Hitchin?" said Lord Lyon. "DO WOMAN tell your story in some sort of order."

"I'm sorry, your Lordship, it's the first time I ever 'ad the pleasure of being in a police court before."

Here the skunk lifted his head without warning, and said, "I asked 'er for the 'and bowl, and she ground 'er teeth at me and 'er eyes come out of 'er 'ed like a wild beast out of a field."

"That's very nearly contempt of court," muttered C.2 All.

But the skunk hadn't finished. "I asked 'er to pull off my boots. She pulled off one and 'it me with it. I pulled off the other and 'it 'er with it; 'onours were easy that time, your worship."

"I don't often get drunk. But someone gives me a drink and then I retaliate; and then the drink takes advantage of me. *You* know 'ow it is, your worship."

"My life's a perfect pergary," jumped in Mrs. Skunk. "Why, only the other day 'e was kicking me in the street when a motor bus drew up and watched 'im; 'e's always got some disagrievance or other."

At this moment the stoat hurried into court. "I'm instructed in this case," he said, breathlessly. "I'm afraid there's some doubt whether the parties are married at all."

"Well, in that case, Mr. Stoat, your client can either have a maintenance order under the Married Women's Acts, or nine affiliation orders. Which would you prefer?"

The poor secretary bird fluttered his wings in great agitation and whispered hurriedly to Lord Lyon.

"Well, I'm tired of this dreadful woman anyway," said the lion.

But Mrs. Skunk suddenly relieved the tension by saying, "Oh, well, 'e's got 'is good faults as well as 'is bad ones, and 'is game leg's a great detriment in 'is favour. I'll 'ave 'im back."

The whole proceedings were very mysterious to Alice, who ended, like the marriage service itself, with "amazement."

"It begins with 'dearly beloved,'" growled the bear.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Company Winding-up—Schedule A Tax—Position of Landlord Proving for Rent.

Q. 2020. A is the landlord of the property upon which B, Ltd., carried on business. There is the usual covenant by the company in the lease to pay all outgoings, except landlord's property tax. The company goes into compulsory liquidation, and the liquidator is about to pay a dividend, but there is a demand for £30 Sched. A tax to be met as a preferential claim. A's dividend on the amount of his claim for rent (£100) is £25. Must the liquidator pay the tax and (i) recoup himself partly with A's £25, leaving A to reclaim concessional relief from the revenue authorities, on the ground of loss of rent, the balance of the tax being paid by the company, or (ii) deduct £30 from A's proof and pay a dividend on the net sum thus arrived at, or (iii) pay not only the tax but A's *dividend* in full ?

A. We regret we are not able to refer the enquirer to any decision on the question. The law, however, seems to be clear. Under the Income Tax Act 1918 Rules, Sched. A, VIII, r. 2, a tenant (if he claims the tax paid from his landlord) is acquitted of part of the rent equal to the amount of tax. It is a *pro tanto* payment of rent. The payment by the liquidator of the £30 is, in effect, a reduction of the landlord's claim to £70 and for that amount he can prove. It is assumed that the assessment to Sched. A is not higher than the annual rent, as, if it is, the tenant is considered to be the beneficial owner of the property to the amount of the excess, and the tax on such excess is the tenant's own liability and not that of the landlord.

Council Meetings—Right of General Public and Newspaper Reporters to Attend.

Q. 2021. Have members of the general public and newspaper reporters the right to attend meetings of an urban district council ? We can find no direct authority. So far as boroughs are concerned, it would appear that they have no such right: *Tenby Corporation* v. *Mason* [1908] 1 Ch. 457. See also Local Authorities (Admission of the Press to Meetings) Act, 1908. As regards meetings of a parish council, it would appear that the public have a right to be present, but that they can be excluded by means of a standing order made by the council or by a resolution to that effect, vide "Ency. of Local Government Law," vol. 5, p. 92. So far as urban districts are concerned, we have referred to Sched. 1 of the Public Health Act, 1875, dealing with the rules applicable to "local boards," which by s. 59 of the Local Government Act, 1894, is made applicable to any urban district council, and the decision in *Purcell* v. *Sowler*, 36 L.T. (N.S.) 416, which was a decision on the right of admission to meetings of the board of guardians and which seems to indicate that the general public have not a right of admission, but that they should be admitted unless the business was of a private nature, such as an enquiry affecting the conduct of a particular person.

A. Cozens-Hardy, M.R., in his judgment in *Tenby Corporation* v. *Mason*, said he did not think any distinction could fairly be drawn between a municipal council, a county council and a district council. The public have no right of admission except such as is given by the standing orders, or, failing standing orders, the practice of the council. Section 5 of the Local Authorities (Admission of the Press to Meetings) Act, 1908, confirms this view that the admission of the public is entirely discretionary. *Bona fide* representatives of the press have, however, a right of admission to such meetings unless excluded at any particular meeting by a resolution passed in accordance with s. 1.

Bankruptcy—Protected Transaction.

Q. 2022. A in 1925 was adjudicated bankrupt. In 1927 freehold property was conveyed to him, which he then mortgaged to B. The Official Receiver has never intervened, and now A proposes to pay off B and convey the property to C.

(1) Will C get a good title, having, through his solicitors, notice of the bankruptcy ?

(2) Is it the duty of C's solicitors to hand the balance of purchase money to the Official Receiver ?

A. Our own view is that s. 27 of the Bankruptcy Act, 1914, was intended to protect just such a transaction as this, including the payment of the purchase money to the bankrupt or to the latter's solicitors producing his receipt. There is, however, a contrary view held by some, that, as the section does not say that a person will be protected if he has knowledge of the bankruptcy, the words "*bona fide*" imply an absence of knowledge, and this view appears to be strengthened by s. 7 of the Land Charges Act, 1925. C's solicitors would be well advised to inform the Official Receiver before completion. It is, of course, assumed that A is undischarged.

Inchoate Assignment of Lease.

Q. 2023. A takes a lease in July, 1928, of a dwelling-house for five years at rental of £30, payable half-yearly on 12th May and 11th November. The lease contains a clause against sub-letting. A pays rent due 12th May, 1930, but is then, owing to unforeseen circumstances, compelled to leave the district and reside elsewhere. The landlord informs A that he has an application to view the house from B. A shows B the house, and B wishes to take same, and offers to pay same rent, but by quarterly instalments. She, however, complains of state of repair, and says she would like certain internal and external repairs completing before she went into possession. A is unable to promise that these will be done, and B knows A's position. A mentions the interview to his landlord (who gives his consent to the sub-letting) and the question of repairs. The landlord is willing to do repairs up to a certain amount, but delays doing them. B does not go to live in the house, and has not done so yet, but she engages a gardener to do certain work about the place, and also keeps certain boxes, etc., in the house and takes the key. In October, 1929, B's husband pays to A £8 for a quarter's rent, at the same time mentioning that very little had been done in the way of repairs. Since then neither B or her husband has made any further payment. The landlord is pressing A for the rent to date, and A is trying to get it from B. B also took A's lease to look through, and retained it until about six weeks ago. B has now approached A's landlord and is willing to take a lease and pay £12 towards the back rent, but says she is not liable for the full rent, as the repairs had not been done. Do you think A has a good cause for action against B and/or her husband for the rent ? Authorities will oblige.

A. A has no cause of action against B or her husband, in view of the L.P.A., 1925, s. 40 (1), which provides that no action may be brought upon any contract for the sale "or other disposition" of land, unless the agreement, or some note or memorandum thereof, is in writing and signed

by the person to be charged, i.e., B. B cannot therefore be sued for damages, but sub-s. 2 provides that the law relating to part performance is not affected. The only part performance, however, has been by B, and not by A, whereas it is necessary that the part performance should have been by the party seeking relief. The result is that, while B could claim specific performance, A is unable to do so. See *Phillips* v. *Alderton* (1876), 24 W.R. 8.

Public Health—Sewage Scheme—Local Enquiry.

Q. 2024. The local authority in this town have submitted to the Ministry of Health for approval a scheme for sewage and sewage disposal within their area. The scheme involves the acquisition of land for the erection thereon of a pumping station. The owners of the land have not been approached by the local authority as yet to sell, and in fact they will refuse to sell, leaving the local authority to exercise their compulsory powers of purchase. The Ministry will most likely order a local enquiry upon the scheme to be held under s. 293 of the Public Health Act, 1875. Assuming that the Ministry approve the scheme, are we correct in assuming that there will still have to be a further enquiry when the local authority come to acquire the land under compulsory powers? We presume the local authority are correct in not approaching the owners of the land in any way upon the matter until the drainage scheme has been approved by the Ministry. We assume that there will have to be the two enquiries above mentioned and that the approval of the drainage scheme by the Ministry would not operate to give the local authority compulsory powers for the acquisition of the land in question without a further enquiry to hear the objectors thereto.

A. It is the general practice to include in one enquiry the whole of the scheme, sites, works, and so on. The Ministry like to have provisional contracts entered into before the enquiry, but the fact that negotiations have been unsuccessful is no bar to consideration and approval of the proposed site. The local authority must, of course, comply with s. 176 of the Public Health Act, 1875, in order to bring in the compulsory purchase into the one enquiry.

Mortgage by Company to Secure Bank Overdraft—Subsequent Creation of Debentures.

Q. 2025. A client company has a first charge on its freehold property to its bank to secure the working overdraft and the mortgage is not limited to any amount. The company is raising extra money on first debentures by way of floating security, including its property, subject to the bank's prior charge thereon. The proposed debenture lenders point out that they wish to be assured not only that no other debentures will be issued prior to or equally with these debentures, but that there shall be a maximum figure agreed, above which the bank's charge on the property shall never rise. In other words the debenture-holders' security is largely in the freehold subject to the bank's mortgage, but they wish a limit up to which the company can borrow from the bank on that security so that the debenture will have the benefit of the property above that fixed limit. Can you please suggest a method whereby this limit can be made compulsory? The bank naturally do not want to be restricted and it is difficult to see how the company can bind itself against acting dishonestly towards the debenture-holders, and I should be glad to hear of any suggestion better than that of having incorporated in the bank's mortgage some undertaking fixing a limit upon which the principal value is to be increased.

A. It appears to us that the simplest way would be to have in addition to the floating charge a specific charge on the property to the debenture-holders, or, if there are several of these, to trustees, this charge being expressed to be subject to any amounts from time to time advanced by the bank under its mortgage not exceeding a specific sum. If express notice of this charge is given to the bank the latter will be protected up to the amount mentioned under s. 94 (1) (*a*), L.P.A., 1925, but not under para. (*b*) and sub-s. (2).

Copyholds—Voluntary Extinguishments of Manorial Incidents—Compensation Agreements—Fees and Mode of Computation of Compensation.

Q. 2026. (*a*) In a voluntary extinguishment are there any fees, or fines, as for an admission (other than those set out in Pt. VII of the Manorial Incidents (Extinguishment) Rules, 1925) payable to the lord and steward respectively, in a case in which the tenant entering into the compensation agreement was not admitted prior to 1st January, 1926 (and, of course, has not been admitted since), but is nevertheless the person having power to enter into the agreement?

(*b*) In the event of the death of the tenant on the court rolls between now and the 1st January, 1931, and the lord after that date serves notice requiring the ascertainment of compensation, is such compensation based according to the age of the tenant in existence at the date of the service of the notice or the tenant on the court rolls on 1st January, 1926, e.g., on the 1st January, 1926, the tenant might be of a great age and greater compensation payable than after 1931, in which year the tenant either by purchase, or succession, might be young and a lesser amount of compensation payable?

A. (*a*) If we are correct in assuming that the tenant is a person in whom under the provisions of L.P.A., 1922, Sched. XII, the freehold was vested, though he was not the copyholder, fines and fees as on an admittance are payable: L.P.A., 1922, Sched. XII, para. 8, proviso (vi).

(*b*) In view of the definition of "tenant" contained in the rules (vide Pt. V, r. 60 (1)), which definition includes the persons deriving title under the person in whom the enfranchised land became vested under L.P.A., 1922, we express the opinion that the age in point is the age of the person upon whom the notice is served.

Equity of Redemption—Execution.

Q. 2027. A married woman purchased a freehold house and executed a legal mortgage to a building society, and she is now living in the house with her husband and family. She has not paid the solicitors' costs for preparing the conveyance and mortgage. If the solicitor obtains judgment in the County Court how can he enforce judgment against debtor's only asset, the equity? Can he get a charging order in the County Court or an order for sale?

A. Our subscriber is referred to query and answer No. 1959, at pp. 460 and 461 of our issue of the 12th July, 1930, where the opinion is expressed that, notwithstanding the technical change in the nature of an equity of redemption effected by L.P.A., 1925, such a right cannot be taken in execution by way of *Fi. fa.* or *Elegit*, and is only extendible by way of equitable execution. We would observe that the costs of the preparation of the mortgage are, strictly speaking, the building society's costs.

Whether a Post-1925 Second Mortgage should be Abstracted or Not.

Q. 2028. A is absolute owner of a freehold property and has agreed to sell it to B. A has mortgaged the property to a first and second mortgagee, both mortgages being after 1925, the second mortgage being registered as a puisne mortgage. The mortgages will be discharged before completion and will be handed over to the purchaser. A's solicitors have deduced title to B's solicitors, but did not abstract the second mortgage. B's solicitors have asked for an abstract of this. Are they entitled to it? A's solicitors are under the impression that it is not necessary to abstract a second mortgage created after 1925.

A. Certainly, in our opinion B is entitled to an abstract of the second mortgage which, be it noted, is a legal mortgage. He is entitled to satisfy himself that this mortgage has been properly vacated, and is not obliged to assume that all is in order.

Correspondence.

"Interest on Death Duties."

Sir,—In your issue of the 13th September appeared an article on "Interest on Death Duties." As no correction was made in the issue of the 20th September, it seems desirable to call attention to the fallacy on which the article is based. Although no deduction is allowed for income tax in respect of interest on death duties, the interest paid is for the purpose of sur-tax grossed. Accordingly, with tax at 4s. 6d. in the pound the rate of interest payable on death duties is treated as approximately £5 3s. 3d. per £100.

The only question, therefore, to be considered in connexion with borrowing, is whether money can be raised at a lower rate than £5 3s. 3d. per £100 setting aside expenses of borrowing. This problem seems so simple that anybody, however reluctant to deal with figures, could, we think, face it.

The income tax calculations are really irrelevant, but surely the suggestion that the average or flat rate of combined income tax and sur-tax might have any bearing on the subject is incorrect. Any reduction in income comes from the top. It is horizontal, not vertical.

Accordingly, the saving of tax on mortgage interest or duty interest with income tax at the present rate is 4s. 6d. in the pound, plus the highest rate or rates of sur-tax otherwise payable on the income of the individual concerned.

Uxbridge. TURBERVILLE SMITH.
29th September.

The Law of Light—Windows in New Buildings.

Sir,—The great increase in the number of small dwelling-houses in the last few years, and particularly in suburban areas, renders it most desirable to effect a reform in the law of light, so as to relieve landowners of what has always appeared to me to be an unjust burden. The reform can readily be effected by a short and reasonably simple Act; and, accordingly, the introduction of a Bill to amend the law in this respect will in due course be instigated.

When a new building is erected the adjoining owner is liable to suffer in the course of time a curtailment of his property, for the time arrives when the windows of that building become privileged, so that part of his own land cannot be used for building, and so depreciates in value. If he is to avoid that loss of value he is forced (as the law now stands) to raise an unsightly screen, so as to gain the protection of the Prescription Act of 1832. This is often an expensive matter, and very frequently leads to unpleasantness between neighbours. The matter is, of course, sometimes settled by agreement, but in the great majority of cases it is either overlooked until too late, or the adjoining landowner is forced to take the steps I have indicated, or to submit to a deprivation of his property rights.

The reform proposed is that an owner whose land is overlooked by the windows of a new building will be relieved from having to take any such steps or from suffering any such deprivation, provided he adopts the facilities for his protection furnished by the new Act. All he will be required to do will be to make and register a declaration under the Act. When his neighbour builds he will make a declaration that the new windows of that neighbour which overlook his land are not to become privileged windows in the course of time. This declaration will be registered as a land charge under the Land Charges Act, 1925, as against the new house property.

The principle of the intended new measure will therefore be essentially just and convenient, and will remove what is undoubtedly an unjust burden under the Act of 1832. A considerable number of landowners, great and small, will benefit by its provisions. No subsisting rights need be interfered with. The amendment of the law ought to become effective in ample time to protect the interests of the owners of land adjoining houses erected since the War. But that, of course, rests with the Legislature.

R. G. NICHOLSON COMBE.

Lincoln's Inn.
26th September.

[We have pleasure in reproducing the above interesting letter by the courtesy of the writer and of the editor of *The Times*. In view of the importance of the subject, we propose to comment upon it in an early issue of this paper. —ED., *Sol. J.*]

Legal Fictions.

The Jester and the Chatterbox.

(*Continued from p.* 641.)

SMITH (picking up ancient folio volume): I have here a large number of authorities on benefit of clergy from the Year Books.

(Exeunt several "silks" who are waiting for the next case.)

CHATTERBOX, J.: Speaking for myself, I shall want a lot of authority.

JESTER, J.: Clergy only meant "clerk." You don't suggest, do you, that all clerks are truthful? Have you never met the solicitor's clerk who assures you that his client can't pay more than 2 and 1 for a three day case. *I* did when I was a junior.

JONES: Anyhow, my lord, the point was not taken in the court below.

JESTER, J.: I have observed that appellants usually reserve their worst points of law for this court.

JONES: I don't want to interrupt my friend, but perhaps I might read what the county court judge said.

CHATTERBOX, J.: What are you reading from, Mr. Jones?

JONES: The judge's notes, my lord, at p. 6 of your lordship's bundle. He said: "I was satisfied that the plaintiff was a hypocritical oleaginous old humbug, and as I did not believe a single word of his evidence, except his name and address, I did not call on the defendant.

CHATTERBOX, J.: He seems to have formed an opinion somewhat against you on the facts, Mr. Smith. We can't interfere with that. What is your other point of law?

SMITH: I submit that the learned judge was wrong in law in holding that "pedigree Pekingese puppy" meant a puppy of pure Pekingese pedigree. Every dog, in my submission, must have a pedigree of some sort, and is therefore a pedigree dog.

FIRST LAW REPORTER (to second ditto): Nothing for us in this.

SECOND L.R.: Utter rubbish; but poor old Jester'll shed salt tears if his jokes aren't in *The Times*, and I see the lay pressmen scribbling like mad, so I suppose I must do half a column.

CHATTERBOX, J. leans over to Jester, J., and begins conversing in an undertone, the only words audible at the Bar being "Have you heard the latest dog story?" When he resumes the perpendicular, the case proceeds.

JONES: The learned judge found as a fact that the most recent ancestors of this puppy were a Pekingese, a retriever, a cocker spaniel, a fox terrier, a schipperke, and a bulldog.

JESTER, J.: You say, Mr. Smith, that "a dog's a dog for a' that"?

CHATTERBOX, J.: We'd better have a view, I think.

(A mis-shapen bundle of mud-coloured fur is brought in and deposited on the desk in front of Mr. Smith).

SMITH: This is the puppy, my lord. It was bred by the plaintiff's wife.

JESTER, J.: Oh, I thought she must have knitted it. (Laughter.)

(The puppy at this point falls off the desk into the front row.)

JESTER, J.: I see now it is not a jumper, but it looks like a cross between a greyhound and a dachshund.

CHATTERBOX, J.: It has some pug in it, I fancy.

JONES: Your lordships have seen this alleged dog. My client proposed to buy it for show purposes. I hardly think I need say more; the county court judge had difficulty in restraining his emotion at the sight.

JESTER, J.: Why should not the defendant show it—on the variety stage? It's a variety dog.

CHATTERBOX, J.: Or enter it in a new class for dogs containing the record number of breeds in one body.

SMITH: Well, my lords, I've submitted ——

JESTER, J.: I'm not surprised that the defendant didn't submit.

CHATTERBOX, J.: What is your submission, Mr. Smith? You've not yet read the judge's notes.

SMITH: I'm sorry, my lord. Perhaps it would be convenient to do so now.

JESTER, J.: I think judge's notes would be in the nature of an anti-climax after the sight of that puppy. We will take them as read.

CHATTERBOX, J.: I asked you just now what is your submission. You have not answered my question.

SMITH: My lord, my submission is that that animal is undoubtedly a puppy; it undoubtedly has a pedigree—a very remarkable pedigree——

CHATTERBOX, J.: But it was said to be a Pekingese puppy.

SMITH: My lord, the learned county court judge has found in my favour that one of its grandparents was a Pekingese. So I submit that there was no evidence on which the judge could find that it was not a pedigree Pekingese puppy. If your lordships are against me on that——

JESTER, J.: } (In unison)—We are.
——CHATTERBOX, J.: }

SMITH: Then I cannot carry it further. (Sits down.)

JESTER, J.: We need not trouble you, Mr. Jones.

In this case the appellant, who was the plaintiff below, sold to the defendant a "pedigree Pekingese puppy" for the sum of 25 guineas. The defendant, on seeing this *monstrum horrendum, informe*—well, hardly *ingens*—refused to pay, and the plaintiff sued her in the county court. The county court judge quite rightly refused to make her pay for that canine patchwork which we have seen. We are asked to say that it is a pedigree puppy—so it is, of a sort—but it is not a Pekingese but an octoroon, which appears to combine all the vices and none of the virtues of the numerous breeds which have contributed to its make up.

In another division of this court it is considered unjust to force a defective title on a purchaser of real estate, and I do not think we ought to force on the defendant a dog whose family scutcheon appears to consist entirely of bars sinister. The appeal is dismissed with costs and contumely.

CHATTERBOX, J.: (Speaking about 300 words a minute.) I agree, and am not at all surprised that the defendant was "fed up"* when she saw this monstrosity. All I can say of its breed is that I suppose it would sooner be that than nothing. The plaintiff must console himself with the reflection that mongrels are proverbial for their sagacity and faithfulness. I daresay it is quite affectionate, but it is not beautiful.

SMITH (to Jones as they leave the court): I wish to goodness someone would fit Chatterbox with a silencer.

JONES: And Jester with an engagement at a music hall.

Exeunt omnes.

* I grieve to say that there is actual judicial authority for this expression in a High Court judgment.

SUMMER TIME REMINDER.

Summer time will end at 3 a.m. on Sunday next, the 5th October. All clocks should be put back one hour *on Saturday night.*

Obituary.

MR. J. A. COMPSTON, K.C.

Mr. John Albert Compston, K.C., died at Westgate-on-Sea on Saturday last, at the age of sixty-eight.

Mr. Compston, who was the son of The Rev. John Compston, a Baptist minister, was educated privately and at Trinity College, Cambridge, and studied first for the profession of solicitor, to which he was admitted in 1890. He practised in Leeds until 1895, when he was called to the Bar by the Middle Temple. He then joined the North-Eastern Circuit, and after first practising at Leeds came to London, when he soon acquired a considerable practice. He took silk in 1912 and later was elected a Bencher of his Inn. In 1919 he was appointed Recorder of Leeds, from which office he retired two years ago. Mr. Compston held high office in Freemasonry, and was Past Provincial Grand Warden of the West Riding of Yorkshire and Past Assistant Grand Registrar of Grand Lodge. He leaves one son and three daughters.

Notes of Cases.

Court of Appeal.

Eastern Counties Farmers' Co-Operative Association Limited *v.* Ipswich Revenue Officer; William Lewis and Sons *v.* Cardiff Revenue Officer.

Scrutton, Greer and Slesser, L.JJ. 11th July.

RATING—DE-RATING—CORN AND SEED-CLEANING STORE—ADAPTING FOR SALE — FACTORY PURPOSE — INDUSTRIAL HEREDITAMENT—RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 Geo. 5, c. 44), s. 3.

Appeals from the Divisional Court.

These two appeals raised the question whether the very complicated and mechanical operations carried out by corn and seed merchants to render the seed, which they purchased in bulk containing a mass of other matter, fit for sale were factory purposes, or merely parts of a distributive business in selling. The Seeds Act of 1920 and the regulations thereunder contained provisions to secure the purity of the seeds sold. The rough bulk as it came to the seed merchants could not legally be sold to farmers because of the impurities which it contained; and commercially certain changes were necessary in the substance. A series of elaborate mechanical operations was therefore performed to sort out the seeds to be sold and render them fit for sale. Some of those operations altered the substance. The seeds must be sorted from the weeds. The original bulk was unsaleable to farmers, both commercially and legally. It must be converted into a smaller bulk, not of one seed, but of collections of seeds. The hereditament in the Ipswich case was used exclusively for treating and preparing seeds for sale, the sale and distribution being carried out on other premises which had not been de-rated. In the Cardiff case there was a retail shop in the front of the premises facing an important street, and the warehouses at the back were used for seed-cleaning processes. The hereditament was apportioned, the retail shop as non-industrial and the warehouse as industrial. The assessment committee put both hereditaments in the special list. On appeals under Baines's Act, the Divisional Court removed both hereditaments from the special list, but the judges proceeded on different grounds. Avory, J., thought that the processes described did not amount to an adapting for sale, but that, if they did, the primary purpose was yet wholesale distributive business. Talbot, J., treating the case as one of great difficulty, was of opinion that there was an adapting for sale, but that yet the primary purpose was wholesale distributive business. Finlay, J., also considering the case one of great difficulty, thought

that there was no adapting for sale, but said that, if there had been, he would not have been able to hold that the primary purpose was wholesale distributive business. The occupiers appealed in both cases.

THE COURT held that the Divisional Court had come to wrong conclusions in both cases. The primary purpose of the hereditament in each case was not a process of sale but a process of manufacture. The complicated mechanical operations carried on on the hereditaments involved both alteration of substance and adapting for sale, making a substantially different article in bulk from that which existed before the process was applied. The process had altered the bulk and had made it legally and commercially saleable. The process being therefore a factory process, its purpose could not be displaced by saying that the process was carried out for the ultimate or ulterior purpose of wholesale distribution. That would destroy all de-rating. The appeals must be allowed and the hereditaments in both cases restored to the special list. Appeals allowed.

COUNSEL: *The Hon. Stafford Cripps*, K.C., and *C. L. Henderson*, for the appellants in the Ipswich case; *C. L. Henderson*, for the appellants in the second case; *The Attorney-General* (Sir William Jowitt, K.C.), *Wilfrid Lewis* and *Colin Pearson*, for the Revenue Officer in both appeals.

SOLICITORS: *Herbert Smith*, for *Westhorp, Cobbold & Ward*, Ipswich; *Herbert Smith; The Treasury Solicitor.*

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

Sedgwick (Revenue Officer) *v.* Camberwell Assessment Committee and Watney, Combe, Reid & Co. Limited.

Scrutton, Greer and Slesser, L.JJ. 11th July.

RATING—DE-RATING—SPECIAL LIST—BEER BOTTLING STORE—CARBONISING AND MATURING BEER—MANUFACTURING PROCESS—BOTTLE WASHING—USE OF MACHINERY—FACTORY PROCESS—PRODUCTION OF BOTTLED BEER—HEREDITAMENT NOT PRIMARILY USED FOR NON-FACTORY PURPOSE—RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 Geo. 5, c. 44), s. 3.

Appeal by Watney, Combe, Reid & Co. Limited, from the decision of the Divisional Court (74 SOL. J. 320), on a case stated under s. 40 of the Valuation (Metropolis) Act, 1869, in respect of a hereditament at Peckham, S.E., of which the appellants were the occupiers.

The appellants carried on business as brewers of beer at the Stag Brewery, Pimlico, and at Mortlake and Isleworth, and occupied or owned various places, known as bottling stores, throughout London. The hereditament in question in this case was one of those beer-bottling stores which comprised premises for carbonising, maturing and bottling beer. Very extensive machinery was used in the hereditament for bottle washing and in bottling beer. The carbonised and matured beer was secured in bottles to preserve its character. The result was a special product, "bottled beer," as distinguished from draught beer, a distinction which did not turn on the fact that the beer was in a bottle, but on the different nature of the liquid in the bottle from draught beer. The revenue officer had appealed to the Divisional Court from the decision of the assessment committee dismissing his objection to the inclusion of the hereditament in question in the Special List for de-rating. He contended that the hereditament was not an industrial hereditament in that it was primarily occupied and used for non-factory purposes, or for one or more of the following purposes: (*a*) distributive wholesale business; (*b*) storage. The Divisional Court held that the process of adapting the beer for sale ended with carbonisation, which was a comparatively minor part of the process carried on at the bottling store. They were of opinion that bottling was part of "distributive wholesale business," and that the premises were primarily used for such a purpose and that the premises were not an industrial hereditament and the appeal of the revenue officer was allowed.

THE COURT held that it was impossible to say that the assessment committee was wrong in including the hereditament in the Special List, as there was not sufficient use of the hereditament for non-factory purposes. The bottling in bottles washed by machinery was a factory process in manufacturing bottled beer. The hereditament was not primarily used for non-factory purposes and should therefore be included in the Special List and the appeal of the brewery company must be allowed.

COUNSEL: *Wilfrid Greene*, K.C., and *Maurice Healy* for the appellants; *The Attorney-General* (Sir William Jowitt, K.C.), *Wilfrid Lewis* and *Colin Pearson* for the Revenue Officer.

SOLICITORS: *Godden, Holme and Ward; The Treasury Solicitor.*

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

The London Playing Fields Society *v.* The Assessment Committee for the South-West Area of Essex.

Lord Hewart, C.J., Avory and Wright, JJ. 24th July.

RATING—PLAYING FIELDS—HELD FREEHOLD BY SOCIETY—POWER TO SELL—VOLUNTARY RESTRICTIONS—PROPERTY RATEABLE IN HANDS OF SOCIETY.

Appeal by way of case stated from a decision of the Essex Quarter Sessions.

The London Playing Fields Society (the society) owned and occupied certain property known as "The Elms" in Walthamstow, consisting of a dwelling-house, garden buildings, playing fields, land and premises, and a rifle range. The society was incorporated by Royal Charter dated the 31st October, 1925, and its objects were, *inter alia*, to encourage and develop the playing of games by clerks and working men and boys of London The society was created a body corporate with perpetual succession and power to acquire and hold lands, and, subject to the charter, was to have unrestricted control over the working and management of the playing fields, etc. The property in question, "The Elms," was freehold, and was conveyed to the society by deed of conveyance dated the 29th September, 1927. In addition to certain voluntary restrictions the deed contained a power in the society to sell the whole or any part of the property. Under bye-laws the society had the right to exclude the public on not more than ten days in the year. The property was rated and assessed on the 10th October, 1928, at £265. The society objected to that assessment, and on the assessment committee's refusal to grant relief, appealed to quarter sessions. The quarter sessions decided (1) that the society was not in rateable occupation of the property, but that the occupation was that of the public; (2) that it was not in beneficial occupation; and (3) that there was no rateable occupation, and that consequently the property had no rateable value. The assessment committee now appealed.

Lord HEWART, C.J., said that the main contention of the society was that no tenant subject to the same restrictions as they were would give for the hereditaments a rent equal to the rateable value appealed against, or any rent. The property in question was conveyed to the society out and out. It was true that the deed contained a restrictive covenant, but it was "with power . . . to sell the whole or any part thereof." And under the bye-laws the playing fields might be closed to the public at certain times, and charges might be made for the use of pitches. In those circumstances it was contended by the society, not that the rateable value was very low, but that those premises had no rateable value at all, and that the proper course was that taken by quarter sessions in striking the entry entirely out of the rate book

The restrictions were voluntary, partial, and might be transitory, and the society had a clear right to sell. He (his lordship) thought, therefore, that the attempt to show that there was no rateable value had failed, and the appeal would be allowed.

AVORY and WRIGHT, JJ., gave judgments to the same effect.

COUNSEL: *Montgomery*, K.C., and *G. R. Blanco White*, for the respondents; *Konstam*, K.C., and *Michael Rowe*, for the appellants.

SOLICITORS: *Mackrell, Maton, Godlee & Quincey; Bircham and Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Norfolk Assizes, Norwich.

Nisi Prius.

Davies *v.* Daws. Daws *v.* Davies.

McCardie, J., and a Special Jury. 6th February.

CONTRACT—SALE OF TRADE STOCKS BY AUCTION—JEWELLERY—CLAIM FOR AUCTIONEER'S REMUNERATION—COUNTER-CLAIM FOR COST OF GOODS SOLD UNDER VALUE TO AUCTIONEER'S KNOWLEDGE—ALLEGED PURCHASE BY AUCTIONEER'S AGENT—"REASONABLE PRICE."

This was an action brought by Mr. Harry Davies (trading as Richard Davies & Co.), auctioneer, sometime of an address in Bishopsgate, London, against the executors of the late Mr. Daws, a well-known Norwich jeweller, trading as Allen and Daws, of 34 London Street, in that city. Daws' executors counter-claimed against Davies.

The statement of claim alleged that by a written contract Davies was engaged to sell the whole of the jewellery stock at 34 London Street, Norwich, plaintiff's remuneration to be 12½ per cent. on all sales effected. In respect of sales by plaintiff on 28th and 29th September, 1928, the defendants paid plaintiff the sum of £150 as remuneration. The defendants, however, it was alleged, stopped the sale on 5th October, and had refused to pay £153 13s. 4d., to which plaintiff claimed to be entitled in respect of the sales made by him on 1st, 2nd, 3rd and 4th October, and further had not paid other sums due to the plaintiff, namely, £2 10s., being half the "floorman's" wages, and the sum of £5, being half the cost of the advertisements of the auction. Further, plaintiff claimed that he had suffered damage and had lost the remuneration he would have earned had he been permitted by defendants to continue the auction. Plaintiff estimated the loss at £250, being 12½ per cent. on the approximate value of the stock not sold by him, and claimed this sum. Defendants entered a counter-claim. They alleged several breaches of contract and stated that plaintiff sold five trays of rings to a purchaser at the price of £250, that sum being to the knowledge of the plaintiff very much below the cost price of £1,012 3s. 3d. They claimed £762 3s. 3d., the difference between the two sums, and £34 18s., cost of the advertisement of the auction and of its postponement; or, alternatively, defendants claimed £797 1s. 3d. as damages for breach of agreement and other damages.

Plaintiff, in evidence, stated that he had been a licensed auctioneer for seventeen years. On 7th September he entered into a contract to sell the goods at 34 London Street. Before the agreement was signed it was agreed that there should be no reserve. This was because the premises had to be vacated in seven days.

McCARDIE, J.: Suppose an item is priced at £100 and suppose the price to the jeweller is £50, you can sell that piece of jewellery—rightly sell it—for 15s.?

DAVIES: No, sir. That is quite ridiculous.

McCARDIE, J.: You would sell a £50 article for 15s.?

DAVIES: It is quite a ridiculous figure

McCARDIE, J.: This question goes to the root of the whole case. What is the principle of your business? Let us know where the public are with London auctioneers who sell their jewellery.

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DAVIES: I would sell for 3d. if it came to that, but I should not take the first bid of 15s. That is the point.

Answering Mr. Havers, plaintiff said that he now had no business address.

In cross-examination, witness said he could not say how the £250 was paid for the rings, alleged by plaintiffs to have been worth a much greater sum, beyond that it was paid in bank notes. He did not notice two £100 notes, and did not see the man who made the purchase.

In opening the case for the defence Mr. HAVERS said that the substantial defence was that plaintiff in performing his duties had been guilty of gross dishonesty, and that was the first and substantial defence which the defendants were putting forward and was independent of the subsidiary defence that the plaintiff also committed breaches of his contract. The cardinal fact he asked the jury to keep in mind was this: It would be proved, he ventured to think, that two notes for £100 were tendered by the purchaser as part of the £250 paid for the five trays of rings, and that those two notes were two of the five plaintiff had drawn from the bank upon 25th September. If the jury accepted the evidence he would invite them without hesitation to say it was a collusive sale by plaintiff in fraud by defendants, committed in breach of the common obligation of honesty towards his employers, the defendants.

As a result of a communication from the jury to His Lordship, which was shown to counsel, the latter consulted. Judgment was then entered by consent for the defence upon the claim against them and also upon the counter-claim, with costs.

Mr. Justice McCARDIE stated that he was sure he was expressing the view of the jury in saying there was no wrong conduct on behalf of Messrs. Daws.

COUNSEL: *W. B. Manley; Cecil R. Havers.*

SOLICITORS: *E. L. L. Foakes; Daynes, Son & Keefe.*

[Reported by JOHN STEVENSON, Esq., Barrister-at-Law.]

Legal Notes and News.

Honours and Appointments.

Mr. GERALD L. GREEN, solicitor, Battersea, was at the last meeting of the Battersea Borough Council appointed Borough Solicitor. He was formerly Managing Clerk to Messrs. Bingham & Co., solicitors, Crown-court, Cheapside, E.C., and to Messrs. Reinhardt, Halsall & Co., solicitors, Birkenhead, and is at present Assistant Solicitor in the office of the Town Clerk of Birmingham (Mr. F. H. C. Wiltshire).

Mr. DOUGLAS D. URQUHART, solicitor, has been appointed Clerk and Factor to Dundee Educational Trust in succession to his father, the late Sir James Urquhart.

Mr. J. B. M. PETERS, Assistant Solicitor in the office of the Clerk to the North Riding County Council (Mr. H. G. Thornley, O.B.E.), has been recommended for the appointment of Chief Assistant Solicitor in the Department of the Town Clerk and Clerk of the Peace of Newcastle-on-Tyne (Mr. A. M. Oliver, M.A., O.B.E.).

Col. W. P. READE, solicitor, Congleton, has been appointed Clerk to the Congleton Borough Justices in succession to Mr. G. Sproston, who has held the position for thirty-five years.

The Warwickshire County Council have appointed Mr. L. EDGAR STEPHENS, the Clerk to the Council, as the council's representative on the Organising Council for the International Congress of Local Authorities to be held in England in 1932.

Mr. F. G. EQUER, Assistant Town Clerk of Jarrow, has been appointed Assistant Solicitor in the office of Mr. Stanley Wilson, Town Clerk of the County Borough of Tynemouth.

The Lord Lieutenant of the West Riding has appointed Mr. F. STOCKTON GOWLAND, solicitor, Clerk of the Peace for the Liberty of Ripon, in succession to the late Mr. W. H. Hutchinson.

Professional Announcements.

(2s. per line.)

Messrs. WALSH, WALTON & ELDRIDGE beg to announce that as from 1st October, 1930, they are amalgamating their practice with that of Messrs. TYRWHITT & MARSHALL, 18, George-street, Oxford. The business of the new firm will as from the 1st October, 1930, be carried on under the style of Marshall & Eldridge, at Vanbrugh House, 20 & 22, St. Michael's Street, Oxford. The telephone number will be 2572.

Messrs. MARTIN & BARRY O'BRIEN, solicitors, have moved from 25, Victoria-street, Westminster, to larger offices at 32, Victoria-street, Westminster, S.W.1. The telephone number (Victoria 0986) and telegraphic address (Martinbrien Sowest London) will remain the same.

MAGISTRATE ON DEPORTATION FROM DOMINIONS.

At London Sessions on Thursday in last week Alan Dunbar Leslie, thirty-one, a clerk, was sentenced to eighteen months' imprisonment for burglary at South Putney.

Leslie, who pleaded "Guilty," was dismissed from the Army in 1919 by General Court-Martial for fraudulent conversion and deprived of the Military Cross. He went to Canada, committed an offence there, and was deported. The Chairman (Sir Robert Wallace, K.C.) said that it was a great pity that Leslie did not stay in Canada. It was a one-sided arrangement that while the Dominions could deport our criminals who committed offences over there we were not allowed to deport Colonial people who committed crimes here.

INCORPORATED SOCIETY OF AUCTIONEERS.

The Council of the Incorporated Society of Auctioneers and Landed Property Agents has appointed the 9th and 10th of April next for the Sixth Annual Session for the Preliminary Examination and the 13th, 14th, 15th, 16th and 17th April for the Associate, Final and Direct Fellowship Examinations. The sittings will be in London, Manchester and Edinburgh, and College of Estate Management Scholarships will be awarded on the results of the Preliminary and Associateship Examinations. Full particulars and entry forms can be obtained from the Registrar, Mr. Methuen A. Fluder, 26, Finsbury-square, London, E.C.2.

Mr. Thomas Waterworth Drury, of Winckley-street, Preston, Lancs, solicitor, left estate of the gross value of £21,159, with net personalty (so far as can at present be ascertained) £14,939.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May, 1930) 3%. Next London Stock Exchange Settlement Thursday, 9th October, 1930.

	Middle Price 1st Oct. 1930.	Flat Interest Yield.	Approximate Yield with redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	88⅜	4 10 2	—
Consols 2½%	55⅜	4 9 8	—
War Loan 5% 1929-47	104¼	4 15 11	—
War Loan 4½% 1925-45	101	4 9 1	4 8 0
War Loan 4½% (Tax free) 1929-42	100½	3 19 7	3 19 0
Funding 4% Loan 1960-90	90⅜	4 8 2	4 9 0
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	95½	4 3 9	4 5 0
Conversion 5% Loan 1944-64	103⅜xd	4 16 5	4 15 6
Conversion 4½% Loan 1940-44	101	4 9 1	4 8 0
Conversion 3½% Loan 1961	78½	4 9 5	—
Local Loans 3% Stock 1912 or after	65	4 12 5	—
Bank Stock	257½xd	4 13 2	—
India 4½% 1950-55	87	5 3 6	5 9 0
India 3½%	64	5 9 5	—
India 3%	55	5 9 1	—
Sudan 4½% 1939-73	95	4 14 9	4 15 6
Sudan 4% 1974	87	4 12 0	4 14 3
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years.)	84¼	3 11 0	4 1 0
Colonial Securities.			
Canada 3% 1938	92	3 5 3	4 3 9
Cape of Good Hope 4% 1916-36	95	4 4 3	4 19 0
Cape of Good Hope 3½% 1929-49	84	4 3 4	4 15 6
Ceylon 5% 1960-70	102	4 18 0	4 17 9
Commonwealth of Australia 5% 1945-75	85½	5 17 0	5 18 6
Gold Coast 4½% 1956	94	4 15 9	4 19 0
Jamaica 4½% 1941-71	94	4 15 9	4 16 9
Natal 4% 1937	95	4 4 3	4 18 0
New South Wales 4½% 1935-45	80	5 12 6	6 7 6
New South Wales 5% 1945-65	82½	6 1 3	6 5 0
New Zealand 4½% 1945	95	4 14 9	5 0 0
New Zealand 5% 1946	101	4 19 0	4 16 3
Nigeria 5% 1950-60	103	4 17 1	4 18 3
Queensland 5% 1940-60	82½	6 1 3	6 9 0
South Africa 5% 1945-75	102	4 18 0	4 17 9
South Australia 5% 1945-75	84½	5 18 4	6 0 9
Tasmania 5% 1945-75	86	5 16 3	5 11 3
Victoria 5% 1945-75	84½	5 18 4	6 3 4
West Australia 5% 1945-75	84½	5 18 4	6 1 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	63	4 15 3	—
Birmingham 5% 1946-56	103	4 17 1	4 16 0
Cardiff 5% 1945-65	101	4 19 0	4 19 3
Croydon 3% 1940-60	71	4 4 6	4 17 3
Hastings 5% 1947-67 (First full half-year's Dividend in October, 1930.)	102	4 18 0	4 17 6
Hull 3½% 1925-55	81	4 6 5	4 16 4
Liverpool 3½% Redeemable by agreement with holders or by purchase	75	4 13 4	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	53	4 14 4	—
London City 3% Consolidated Stock after 1920 at option of Corporation	65	4 12 4	—
Manchester 3% on or after 1941	63	4 15 3	—
Metropolitan Water Board 3% "A" 1963-2003	66	4 10 11	—
Metropolitan Water Board 3% "B" 1934-2003	67	4 9 7	—
Middlesex C.C. 3½% 1927-47	86	4 1 5	4 14 0
Newcastle 3½% Irredeemable	73	4 15 11	—
Nottingham 3% Irredeemable	64	4 13 9	—
Stockton 5% 1946-66	101	4 19 0	4 18 9
Wolverhampton 5% 1946-56	101	4 19 0	4 18 9
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	83	4 16 5	—
Gt. Western Rly. 5% Rent Charge	100	5 0 0	—
Gt. Western Rly. 5% Preference	93	5 7 6	—
L. & N.E. Rly. 4% Debenture	75½	5 6 0	—
L. & N.E. Rly. 4% 1st Guaranteed	71	5 12 8	—
L. & N.E. Rly. 4% 1st Preference	55	7 5 6	—
L. Mid. & Scot. Rly. 4% Debenture	80	5 0 0	—
L. Mid. & Scot. Rly. 4% Guaranteed	75½	5 6 0	—
L. Mid. & Scot. Rly. 4% Preference	60½	6 12 3	—
Southern Railway 4% Debenture	81	4 18 9	—
Southern Railway 5% Guaranteed	97½	5 2 7	—
Southern Railway 5% Preference	84½	5 18 4	—

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is frequently very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. *Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality* 'Phones: Temple Bar 1181-2.

EX-OFFICERS AND OTHER RANKS.

THE Proprietors of The Solicitors' Journal have placed this space at the disposal of THE BRITISH LEGION OFFICERS' ASSOCIATION, EMPLOYMENT BUREAU, 3-4, Clement's Inn, Strand, London, W.C.2 (Telephone Holborn 5769), to whom all replies should be addressed, quoting number of advertisement, date of insertion and the name of this paper.

EX-LIEUT. Pilot R.A.F., public school, age 31, desires remunerative appointment home or abroad, cotton, shipping and motor business experience. Excellent credentials. 12170

ADVERTISING or Publicity Manager, thorough knowledge overseas, with good selling and executive experience, thorough knowledge press outdoor publicity, printing, blocks; seeks post as assistant manager large manufacturing organisation. Highest credentials. 12273

SALES Engineer, 38, nine years' wide practical and commercial experience, electrical and mechanical. Advertising, estimating. Exports. Dis.346

LATE Agency, Executive and Advertising manager to a company of international repute, requires appointment. Keen organiser, sales promotion and research man. Wide experience of every phase of marketing. Highest credentials. Dis.346

EX-OFFICER desires post; Secretary Officers' mess or club. Over a year's experience mess and wine secretary to large Gunners' Mess, India. Charge of staff accounts, wine cellar, bottling, silver, stores, All catering and ordering. World travelled. Eighteen years East and Africa. Single. 12165

EX-OFFICER, married, public school, old Worcester Cadet, 9 years' East African Civil Service, 21 years' service Naval Reserve, master mariner, Commander, retired, R.N.R. Splendid health, willing to do anything and go anywhere. 11729

ARTICLED CLERKS, &c.

SOLICITOR has vacancy for Articled Clerk; general practice; premium required, part returned. —Write Box 548, Solicitors' Journal, 29, Breams-buildings, E.C.4.

LONDON Solicitor has vacancy for Articled pupil; personal supervision; good prospects; premium; preference for public school boy.—Write Box 538, Solicitors' Journal, 29, Breams-buildings, E.C.4.

CONVEYANCING firm in Midlands have vacancy for articled clerk. Premium secondary consideration; hard worker essential.—Box 534, Solicitors' Journal 29, Breams-buildings, E.C.4.

VACANCY in newly established Manchester office for energetic articled clerk; personal supervision and tuition assured: premium essential.—Box 314, Solicitors' Journal, 29, Breams-buildings, E.C 4.

SOLICITOR, with busy and growing general practice, has vacancy for Articled Clerk. Personal supervision. Premium required, part returned.—Apply, Box 146, Solicitors' Journal, 29 Breams-buildings, E.C.4.

SOLICITOR, general practice and clerk to local authority in growing South Coast town, has vacancy for articled clerk. Public school man preferred. Good prospects for suitable man used to country life.—Box No. 87, Solicitors' Journal, 29, Breams-bldgs., E.C.4.

PRACTICES AND PARTNERSHIPS.

SOLICITOR desires to purchase old-established general and conveyancing practice in or near London showing substantial profits; or early succession.—Box 99, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (35), M.A., Oxon, Commissioner for Oaths, desires partnership in old-established Conveyancing and General Country Practice; preferably in Chester or neighbouring counties. Wide experience in conveyancing, trust and family business and general practice. Able to introduce business; necessary capital available.—Box 246, Solicitors' Journal, 29, Breams-buildings, E.C.4.

A LARGE Firm of London Solicitors having recently acquired extra office accommodation would be pleased to purchase on mutually satisfactory terms practices of London solicitors desiring to retire. Communications can be addressed to: Box No. 560, c/o White's, Ltd., 72-78, Fleet-street, E.C.4.

SOLICITOR, practising own account, desires to purchase established progressive Conveyancing and General Practice producing average net profit £1,000 per annum in London.—Box 124, Solicitors' Journal, 29 Breams-buildings, E.C.4.

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ADJACENT Law Courts.—Offices available, Principal's room, with use of clerk's office and waiting room connecting. Very convenient and in much sought-after position.—Box 551, Solicitors' Journal, 29, Breams-buildings, E.C.4.

LEWISHAM High-road, S.E. (fine position), 2 very large rooms, entrance floor, usual offices; also excellent living accommodation over, if required. Good lease at moderate rental, to responsible tenant.—Write Mr. Thomas, 71, Talfourd-Road, London, S.E.15.

LAW BOOKS.

WHAT OFFERS?—Halsbury's Laws of England and Encyclopædia of Forms and Precedents; perfect condition; English and Empire Digest, 46 vols. new. All thin paper editions; also mahogany bookcase.—Box 542, Solicitors' Journal, 29, Breams-buildings, E.C.4.

FOR SALE.—English and Empire Digest, complete, in perfect condition. Offers wanted.—Box 506, Solicitors' Journal, 29, Breams-buildings, E.C.4.

WANTED to Purchase, cheaply, Encyclopædia of Forms, Empire Digest, and Halsbury's Laws of England.—Apply Box 559, Solicitors' Journal, 29, Breams-buildings, E.C.4.

INVESTMENTS.

PROPERTY investment.—Trustees require to invest in blocks of weekly property of about £25,000 each, and Freehold Ground Rents for fund of £85,000.—Fullest particulars are invited in confidence to Messrs. Fairbrother, West & Co., Surveyors, 173, Praed-street, W.2.

MISCELLANEOUS.

A LARGE Fire-resisting Safe with Hobbs Patent Lock. Inside dimensions, 3 ft. by 4 ft. 4 ins. by 2 ft. Specially suitable for a solicitor. Price £20 at Watford.—Apply Penman, Johnson & Ewins, Carlton-chambers, Watford.

INFORMATION REQUIRED.

2s. per line.

ALLANBY.—Mrs. ALICE MARTHA ALLANBY (formerly Nash), late of 14, Montrell-road, Streatham, London, died on the 16th August, 1929. She was the Widow of Louis Charles Allanby, late of 88, Harborough-road, Streatham, London, who died on the 18th January, 1921. Her father died in January, 1869. Her mother, Martha Brenchley Nash, formerly of 22, Beechdale-road, Brixton, London, died on the 6th August, 1916. Her brother, Alfred George Nash, died at Rockhampton, Queensland, on the 8th August, 1918. NEXT-OF-KIN of Mrs. ALICE MARTHA ALLANBY are requested to COMMUNICATE with Messrs. Simmons and Simmons, Solicitors, 1, Threadneedle-street, London, E.C.2.

INFORMATION regarding the whereabouts of parties seeking E. GANDY in Petrolea, Ontario, in past five years, please COMMUNICATE with Hewitt, Woollacott & Chown, Solicitors, 6, Bond-court, Walbrook, London, E.C.

WILL any person having any Information regarding a WILL left by ISADORE STERNEFELD, who died in the American Hospital, Paris, on 26th July 1930, please COMMUNICATE with HUTCHISON and CUFF, 6, Stone-buildings, Lincoln's Inn, London.

CROSS.—JOHN RUFFLES CROSS, a son of the late Thomas Cross, of Chailey, in the County of Sussex, or his next of kin, are requested to apply to the Treasury Solicitor (B.V.), Storey's-gate, London, S.W.1. (Estate about £400.)

RE the estate of THOMAS BATES, Esquire, deceased, late of Little Eaton, Derbyshire, and 12, Trump-street, in the City of London, and St. Peters, Carshalton, Surrey, South African Merchant.—The undermentioned are REQUESTED TO COMMUNICATE with the undersigned Solicitors, concerned in this Estate: Edwin Bates, late Clerk to the deceased; Children of the deceased's Sister, Mary Jane Bingham; George Bates, Robert Arthur Bates, William Bates, and Hannah Crooks, Brothers and Sister of the deceased, or if dead their children. Dated this 30th day of July, 1930.—Ponsford and Devenish, 13-14, Walbrook, E.C.4.

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£48 PER ANNUM, secured upon 1 to 23, St. Mary's-road, Lower Edmonton, with Reversion in 40 years to Rack Rents of £312 per annum.

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£6 PER ANNUM, secured upon 75 and 77, Tower Hamlets-road, Forest Gate, with Reversion in 33 years, to Rack Rents of £65 per annum.

£10 10s. PER ANNUM, secured upon the House and Shop, 150, High-street, Merton.

Particulars of Messrs. Daniel & Cruttwell, Solicitors, Frome, Somerset, and of Stimson & Sons, 25, Ironmonger-lane, E.C.2, and 12, New Kent-road, S.E.1.

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CLAPHAM.—63 Shelgate-road. Eight Rooms, Bath, &c., producing £101 8s. p.a. Lease 51 years unexpired. G. R. £10.

STOCKWELL.—6 Chantrey-road. Six Rooms, producing £54 p.a. Lease 48 Years, unexpired. G.R. £5.

KENNINGTON.—64, St. Agnes-place. Eight Rooms, producing £42 18s. p.a. Lease 36 Years, unexpired. G.R. £8.

BALHAM.—83, Zennor-road. Six Rooms, producing £85 16s. p.a. Lease 48 Years, unexpired. G.R. £5.

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have reserved certain dates for Sales by Auction in London. Vendors, Solicitors and Trustees having Properties for sale are respectfully invited to communicate with the Auctioneers at their Offices:

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Printed by The Solicitors' Law Stationery Society, Ltd., at "Oyez" House, Fetter Lane, London, E.C.4, and Published at 29, Breams Buildings, E.C.4 ('Phone: Holborn 1853) Agents—The United States and Canada; The Carswell Co., Ltd., 145-149, Adelaide Street West, Toronto 2, Canada; India: Higginbothams, Publishers, Mount Road, Madras; Australia and New Zealand: "The Times," 255a, George Street, Sydney, N.S.W. Saturday, October 4th, 1930.